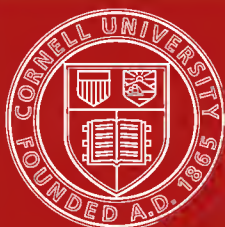


CORNELL
UNIVERSITY
LIBRARY





Cornell University
Library

The original of this book is in
the Cornell University Library.

There are no known copyright restrictions in
the United States on the use of the text.

<http://www.archive.org/details/cu31924092522824>

A.297772

~~X~~
VOLUME XIII.

INDEX OF WITNESSES.

	Direct	Cross	Re- direct	Re- cross
Percival Roberts, Jr.	4939	5017	5148	5149
Elbert H. Gary (recalled).....	5150	5151		

INDEX OF EXHIBITS.

	PAGE
Defendants' Exhibit No. 64a	4965

ERRATUM.

Page 4957, line 18, should read:

MR. DICKINSON: I object to that as irrelevant and incompetent.

SIXTY-NINTH DAY.

EMPIRE BUILDING,
71 BROADWAY, NEW YORK CITY,

WEDNESDAY, JUNE 4, 1913.

Before SPECIAL EXAMINER HENRY P. BROWN.

Present on behalf of the United States, MR. DICKINSON
and MR. COLTON:

Present on behalf of the defendants, MR. LINDABURY, MR.
SEVERANCE, MR. BOLLING and MR. REED.

PERCIVAL ROBERTS, JR.,

the witness under examination at the taking of the adjournment, resumed the stand.

DIRECT EXAMINATION (Continued),

By MR. SEVERANCE:

Q. Last night when we adjourned you had just stated the character of the business conducted by the Pencoyd Company, or rather, the substitution of steel for iron in that business. You also stated that you went into the company in 1876 and continued with it until 1900. I wish you would state, Mr. Roberts, in your own way without further questions, the general facts relative to the development of the iron and steel industry during the period in question, from 1876 to 1900, including the substitution of steel for iron and the result of such substitution, changes in the units of production, and all matters that are naturally relevant to the general subject of the development of the industry during that period. That is a rather large question, but I think you understand it.

MR. DICKINSON: What industry is this?

MR. SEVERANCE: Iron and steel.

MR. COLTON: The structural end or the whole thing?

MR. SEVERANCE: The industry as a whole. Mr. Roberts is thoroughly competent, I think.

MR. DICKINSON: I think I will enter an objection to that as irrelevant and cumulative, and unnecessary.

MR. SEVERANCE: Cumulative?

MR. DICKINSON: Yes.

THE WITNESS: As I think I stated yesterday, prior to about the year 1885 all wrought material was the product of the puddling furnace and known as wrought iron. It is true that prior to that date there were two methods of making steel, one known as the Bessemer or pneumatic process, the other the open hearth or Siemens-Martin process. Of course there was a third process, known as crucible steel, but that plays no part in the products I am discussing. Steel prior to that date was used principally for the manufacture of steel rails, and some small lines in addition.

By MR. SEVERANCE:

Q. Previous to what date?

A. 1885. The raw material of the character required in the processes of open hearth and Bessemer was limited in extent, due to the fact that it was necessary to limit the phosphorus in the resulting product of steel, and there was no known method of removing this metaloid during the process of manufacturing pig iron or steel. About the early eighties two Englishmen, Thomas and Gilchrist, made the discovery that it was possible to remove phosphorus from pig iron during the manufacture of steel in either the Bessemer converter or the open hearth furnace by using what was known as a basic lining, the base being lime as distinguished from an acid lining, which would be silica, and their discoveries were announced to the world about the year 1885. This discovery practically revolutionized the iron industry, and by the year 1890 basic open hearth steel had practically supplanted the use of wrought iron for all commercial purposes. In the late eighties the introduction of electricity as a motive power also produced another revolution in the steel industry, so that practically all works had to be rebuilt if they desired to keep abreast of the most recent development of the art. The situation then developed in the late eighties that the independent iron producing plant would either have to be

abandoned or modified for the manufacture of basic open hearth steel. Up to that time our unit of measurement had been a puddling furnace producing four tons of material in twenty-four hours. As against this, our new unit of measurement was an open hearth steel furnace producing some 100 tons of material in twenty-four hours. An economic plant would not consist of less than say ten or twelve of these fifty-ton steel furnaces, as against an economic iron plant containing from ten to twenty puddling furnaces.

Q. You say a fifty-ton furnace?

A. A fifty-ton furnace would have a capacity of 100 tons in twenty-four hours, or ten furnaces would have a capacity of 1,000 tons in twenty-four hours, as against ten puddling furnaces with a product of forty tons in twenty-four hours.

By MR. DICKINSON:

Q. What date are you giving there?

A. About the year 1890. There were a few pioneers in the basic open-hearth business in the United States. Among them I might mention the Otis Steel Company in Cleveland, the Carnegie Steel Company, the Pencoyd Iron Works. These three, I think, were the earliest producers of basic open-hearth steel in the country. As the iron making establishments found—

MR. SEVERANCE: May I interrupt just for one question, and then you go on?

THE WITNESS: Certainly.

By MR. SEVERANCE:

Q. Was there a substantial difference or was there not a substantial difference between the rolling machinery in a wrought iron plant and a steel plant?

A. In the early days there was no difference; that is, as far as the finished material was concerned. An iron plant temporarily in the early stages would buy billets and roll them indiscriminately in with their wrought iron product. The basic process, due to the fact that by its use we were enabled to de-phosphorize pig iron, permitted of the use of any and all characters of material which had not been the case in either the acid open-hearth or the acid Bessemer.

Q. What do you mean by all classes of raw material?

A. We could use pig iron of any quality whatever. It made no difference. The poorest could be used equally as well as the lowest in phosphorus content, as all the phosphorus practically was eliminated in the basic open-hearth furnace. The open-hearth process was originally developed and known as the Siemens-Martin process, or the Siemens-Martin open-hearth furnace. That was a sand or acid lining, a silica lining. The invention of Thomas and Gilchrist was to substitute a lining of magnesite or burned lime for the silica lining.

By MR. DICKINSON:

Q. Do they still use the gas jet?

A. They still use gas, still use silica above the bath of lime.

Q. You said they could use every kind of iron? They could not use iron that had more than five per cent. silicon in the Siemens process, could they?

A. The limit of trouble in the making of our pig iron for steel purposes was the phosphorus content.

Q. Could the gas jets burn out if there was more than five per cent. of silicon in the iron?

A. There is never five per cent. of silicon in any pig iron. That would go then into what we practically call ferro-silicon. There is no commercial pig iron which contains five per cent. silicon. Silicon in pig iron would play no part in an acid furnace, but silicon in pig iron would have effect on a basic lined furnace, but there is no trouble to control your percentage of silicon in your blast furnace.

Q. Do you include foundry iron when you speak of using any kind of iron?

A. Yes, any kind of iron, but we would not use foundry iron, due to the fact that it would be more expensive to produce it in a blast furnace than it would be to produce what we would call basic iron, which has a lower silicon content. That is merely the result of the temperature of the running of the blast furnace. You run your blast furnace at a higher temperature to produce foundry iron from what you do when

you produce what is known as basic iron or iron whose content of silicon is less.

MR. SEVERANCE: Have you any further questions, Judge?

MR. DICKINSON: I think that is all.

MR. SEVERANCE: I suppose this is not strictly the time for cross-examination, but I do not object if you want to ask anything further at this time.

MR. COLTON: It was just in connection with the process of manufacture. That is all.

MR. SEVERANCE: If there is anything further you would like to bring out, you may ask Mr. Roberts about it. I do not object, at all.

MR. DICKINSON: I just want to know if foundry pig iron was used for steel making purposes, for the reasons you have stated.

THE WITNESS: Foundry pig iron could be used.

MR. DICKINSON: I know, but was it used at the time you speak of?

THE WITNESS: It would not be used, because of the fact that it was commercially cheaper to use something else. Foundry pig iron is, as I said a moment ago, the product of a blast furnace, which is run at a higher temperature, carrying a higher percentage of fuel in the burden than in making the lower silicon irons. Therefore it is not economical iron at that high temperature unless you wish to produce what is termed a very gray pig iron, which, when melted for foundry purposes, melts very thin so, when it is cast in the moulds, it will produce a casting of fine finished form. The chemical content, excepting the fact that it has higher silicon, so far as phosphorus is concerned, would be the same as the lower silicon iron produced from the same ores.

A blast furnace running to-day may produce foundry iron, and to-morrow, if it is a wet day, and the temperature of the furnace becomes lower, it produces what would be termed gray forge iron, not basic iron, although the contents of the furnace would be just the same. Have I made that clear, Judge?

MR. DICKINSON: You have answered a great deal more than I intended. I did not intend to interrupt you so much.

By MR. SEVERANCE:

Q. Then proceed with your answer.

A. I think I had reached the situation existing as of the late eighties, when basic open-hearth steel was gradually, or rapidly, I might say, supplanting wrought iron. The wrought iron plants that were of smaller capacity and had insufficient capital or lack of sufficient tonnage to dispose of the product of an economical steel plant commenced purchasing billets and blooms from those who had converted their plants into steel manufacturing ones. This production of billets and blooms was practically a by-product with the finishing mills. In times of activity they had very little surplus product to spare. When not so pushed on finished material, they disposed of part of their steel melting capacity in the shape of semi-finished material. The iron plants purchasing this material found that the same could not be carried on successfully, due to the fact that it required an almost unlimited capital to be locked up in supplies of billets, as finished material required so many different weights of billets and blooms that the stock on hand had to be enormously large; also the chemical requirements of orders required that different grades of steel should be used. This also required a vast amount of material to be carried at all times on hand. Another matter which occurred about that time changed very materially the situation, and that was the introduction of what was known as the Jones mixer. I might say that up to that time the production of all blast furnaces was run out from the furnace in the shape of liquid pig iron and cast in the sand and allowed to become cool. The invention of the Jones mixer was for the purpose of carrying on the production of steel as one continuous operation from ore to the finished product, never permitting the material to become cold until it reached the final economic shape. I do not mean to say that this applies to all finished shapes, but to a cross-section of material at which it would be economical to let the material cool.

Q. May I interrupt? Will you kindly explain briefly what the Jones mixer is?

A. The Jones mixer is a large vessel placed between the

blast furnace and the steel works, in which the product of the blast furnace is run in liquid form, making a large reservoir of fluid pig iron from which ladles are taken in liquid condition, the contents in liquid condition, and used in Bessemer converters or open-hearth furnaces. The advantage of this process was that it reduced the cost of manufacture in this one respect alone by about \$1 a ton, which is the cost of re-melting cold pig iron for steel production.

The situation from 1890 on grew more and more acute. Those concerns which had become more or less integrated and had changed their methods from those of iron to steel were continuing their integration to even a greater extent than before, although I would like to say that even prior to the introduction of steel the matter of integration was one of varying degree, even in the manufacture of wrought iron, although there was not the same necessity for it. In those days one man mined ore, another man ran a blast furnace, another man operated rolling mills. The processes were all disconnected.

Q. What about coal and limestone?

A. Coal and limestone were sometimes separate, sometimes controlled by one party, but even in those days there were certain establishments which controlled their material from the ore and limestone up to the finished wrought iron product, so that even in those days iron manufacturers were not on the same basis as regards competition. Those concerns whose output—I speak now as of about the year 1890—those concerns whose output was of a character and of sufficient tonnage, and who controlled sufficient capital to enable them to convert their works from iron to steel, did so, but there were a vast number of those whose character of product was of a less heavy nature, such as sheets, small bars, light plates, etc., who neither had the capital nor the output to warrant them in making, or rendered it possible for them to make, this change. There was also another class of establishments, namely the blast furnaces, who had heretofore supplied the puddling furnace or the rolling mills with their pig iron for making bars. Those concerns found themselves without customers and they in turn were forced to develop a product

which would take the place of their former one. These smaller concerns were buying, as I say, to the best of their ability their billets, blooms and slabs from the larger concerns who were making them in a certain sense as a by-product during the years from about 1890 to 1896.

These revolutions which I have spoken of, due to the introduction of basic open-hearth steel in place of wrought iron, were the fundamental reason for all the earlier aggregations of works which took place about the year 1898 and through that year down to say 1900. Certain of them were integrating, like the Federal Steel and the Carnegie Steel Company, backward to their supplies of raw material and to the extent which they had formerly been consumers, they to that extent became producers. The other concerns, like the National Steel, were composed largely of blast furnaces that had lost their custom for pig iron and who found themselves compelled to produce, instead of pig iron, billets and blooms for sale to those who had formerly used wrought iron. The Tin Plate, the Sheet Steel, the Hoop, the American Steel & Wire, were composed of concerns who individually were neither able, for want of capital or amount of output, to change from wrought iron or to manufacture steel in sufficient quantities to make it commercially profitable to do so.

Q. In view of what you have just said about these last four companies (you seem to have embodied two answers into one), had the Tin Plate been a manufacturer of wrought iron products, and did you intend so to state by your answer?

MR. DICKINSON: I object to putting the question in that form as leading, and it is improper examination of the witness.

THE WITNESS: The Tin Plate Company had been a consumer and not a producer of wrought iron product, and in fact, the manufacture of tin plate had not taken place in this country until after the introduction of the use of open-hearth steel. So far as I included them in my answer, I meant to state that they individually were unable to produce the raw material from which their finished product was made, but by combining these individual units, they would be enabled to do so economically.

Q. What was the source of the steel used by the American Tin Plate Company? Where did they get the most of it?

A. From the National Steel Company, and before the days of the National Steel Company in the open market from whomsoever might have a surplus of steel melting capacity over and above his own requirements for finished material. For instance, the Pencoyd Iron Works at times were sellers of tin plate bars; but only at such times as they had a surplus of steel over and above their own requirements. This, in the early days, was common in the trade.

Q. Was there any community of ownership between the National and the tin plate companies at that time? Was there or was there not?

A. Those three companies were formed between 1898 and 1900, I think—the National Steel, the Tin Plate——

MR. DICKINSON: Excuse me for a moment, Mr. Roberts. I object to that question as cumulative evidence of a fact proven over and over in the record and undisputed.

MR. SEVERANCE: Is that an objection?

MR. DICKINSON: Yes, it is an objection.

MR. SEVERANCE: I say, is it an objection because you have proved something, for me to prove it?

MR. DICKINSON: You have already proved it.

MR. SEVERANCE: Oh, have I?

MR. DICKINSON: Yes.

MR. SEVERANCE: I do not recall it. Go ahead, Mr. Roberts.

(By request of the witness, the stenographer repeated the last question and answer as follows:)

“Q. Was there any community of ownership between the National and the tin plate companies at that time? Was there or was there not?

“A. Those three companies were formed between 1898 and 1900, I think—the National Steel, the Tin Plate——”

MR. SEVERANCE: I suggest, Judge, that you make your objection either before the witness begins his answer or after he has finished it.

MR. DICKINSON: I started to object once or twice, and with

some asperity you asked me to wait, and I waited until the witness began his answer.

MR. SEVERANCE: Mr. Roberts, please give Judge Dickinson a chance to object before you answer.

MR. DICKINSON: I do not like to have any more friction than I can, and I have tried to avoid it as far as I could.

MR. SEVERANCE: Just give the Judge an opportunity to object, Mr. Roberts.

(By request the stenographer again read the unfinished answer of the witness as follows:)

"A. Those three companies were formed between 1898 and 1900, I think—The National Steel, the Tin Plate——"

THE WITNESS: (Continuing) The Sheet Steel and the Steel Hoop—there were four of them. These four, while under separate incorporations, were known as one group. All of these concerns were dependent for their supply of steel upon the National Steel Company; and this was directly along the same lines of integration as those under which the Federal Steel and Carnegie Steel were working at that time.

Such was the situation as of about the year 1900. Those concerns which did not so integrate or change to steel were rapidly disappearing. The census reports of the United States for 1895 show——

MR. DICKINSON: I object to the witness stating what the census report shows, as hearsay and incompetent.

By MR. SEVERANCE:

Q. You have the census report before you, have you not, Mr. Roberts?

A. I have.

Q. Just produce it. You may use it. That is the official publication that you have in front of you?

A. (Reading) "Department of Commerce and Labor, Bureau of the Census, Bulletin No. 78, Census of Manufactures, 1905, iron and steel and tin and terne plate. Government Printing Office, 1907."

Q. There are merely a few figures that I want to prove from that census report.

MR. DICKINSON: I would like to see what it is.

MR. SEVERANCE: Yes; just look at it, Judge. It is the regular Government publication. There is no need to offer the whole book.

MR. DICKINSON: Is it this page here (indicating)?

THE WITNESS: It is pages 16 and 17.

By MR. SEVERANCE:

Q. Can you state, Mr. Roberts, by reference to this census bulletin to which you have just referred, the number of iron and steel establishments shown by the census of 1900, 1890 and 1880, respectively?

A. Yes.

Q. Can you also give the capital invested in those plants?

A. I can.

Q. Will you kindly do so?

MR. DICKINSON: Objected to as irrelevant.

MR. SEVERANCE: Please give those items.

THE WITNESS: In 1880 there were 992 establishments, with a total capitalization of \$228,844,953. In 1890 there were 838 establishments, with a total capitalization of \$426,413,902. In 1900 there were 763 establishments with a total capitalization of \$608,898,516.

By MR. SEVERANCE:

Q. Will you kindly state by reference to that same bulletin, page 16, the total number of blast furnace establishments in 1880, 1890 and 1900 respectively?

A. In 1880, 483; in 1890, 377; in 1900, 273.

Q. I notice by these figures, Mr. Roberts, that the number of blast furnaces and of the steel works and rolling mills had decreased very substantially during that period. Had the output likewise decreased or had it increased?

A. The output per furnace had increased even to a greater extent than the percentage of reduction in the number of furnaces.

MR. DICKINSON: Are you speaking from the census now in regard to output?

THE WITNESS: I speak either from the census or from the reports of the American Iron & Steel Association.

MR. DICKINSON: I ask if he is speaking from the census.

MR. SEVERANCE: No.

MR. DICKINSON: I object to his answer as not showing the sources of information, and as hearsay.

THE WITNESS: I would name the sources of information as the census reports of the Government, and also the reports of the American Iron & Steel Association for the several respective years.

By MR. SEVERANCE:

Q. From your knowledge of the steel and iron industry, the knowledge you have been able to obtain during the many years you have been in business, are you able to state whether steel and iron production of this country increased between 1880 and 1900?

A. Very materially; I think I stated that yesterday in my testimony as to the increase in output. That was between 1876 and date, but the census report for 1905, I believe, gives the percentage of increase.

MR. DICKINSON: I object to his stating what the census report shows.

MR. SEVERANCE: Never mind, do not state what it shows. We will put it in.

THE WITNESS: The figures are there in the report.

MR. DICKINSON: Show them, if the figures are there.

THE WITNESS: Shall I show them?

MR. DICKINSON: There is no objection to that, subject, of course, to irrelevancy. If you have them here we might as well see what they are. We object to them as irrelevant. You will let us see them after you are through?

MR. SEVERANCE: Certainly.

By MR. SEVERANCE:

Q. Will you read the statement on page 70 of the bulletin for 1905, to which you have just referred?

MR. DICKINSON: That is objected to as irrelevant.

THE WITNESS: (Reading):

“The growth of steel production has been the heaviest of any portion of the iron and steel industry. The product for 1900 shows a gain over that of 1890 of 6,510,348 tons, or 155.9 per cent., an average increase of about 650,000 tons per year.

The product of 1890 shows a gain over that of 1880 of 3,147,271 tons, or 306.3 per cent., an average increase of nearly 315,000 tons per year."

MR. SEVERANCE: Mr. Colton suggests that in addition to the answer to the question, as to the increase between 1880 and 1900, there also be read into the record the following, which appears between the first sentence read by the witness and the statement as to the product for 1890, namely:

THE WITNESS (Reading):

"The increase in the steel production in 1905 was 2,985,592 tons over that of 1900, or 27.9 per cent.; this is an average increase of nearly 600,000 tons per year."

I would just say one word to finish that. Coming down to the year 1900 very many, if not the majority, of those concerns who did not integrate sufficiently to control their supply of raw material failed in business or were abandoned by their owners.

Q. Mr. Roberts, going back to the early days of this period that you have been covering, will you state where concerns like the Pencoyd procured their pig iron?

MR. DICKINSON: Will you make that a little more definite?

By MR. SEVERANCE:

Q. Take it up to 1890.

A. Eastern Pennsylvania, Virginia, Alabama, also some from the Pittsburgh district.

Q. After 1890 where did the Pencoyd procure the bulk of its pig iron up to 1900?

A. It procured a large amount from Virginia and from a local furnace a few miles from the site of the Pencoyd Works, and the local furnace used largely imported ores and some Lake Superior ores; the Virginia furnace of course used local ores; many of the furnaces which had formerly supplied the pig iron for the Pencoyd Works had been abandoned, due to the extinction and failure of their local ore supply.

Q. Where was this local ore supply that had been extinguished?

A. There were a number of them in eastern Pennsylvania and New Jersey.

Q. Was there any Lake Superior ore shipped into the eastern Pennsylvania region prior to 1890?

A. Practically none.

Q. Was there any Lake Superior ore shipped into that region later?

A. Yes.

Q. For what purpose was it used?

A. Used in the blast furnaces.

Q. Was there any Lake Superior ore shipped in there for use in the open-hearth furnaces?

A. Only to a limited extent. It would not be an appreciable quantity.

Q. Do you know of any time that ores were imported into the Pittsburgh district from abroad?

A. Before the development of the basic open-hearth process, while they were still making some acid open-hearth steel, there were importations of Spanish ores and African ores into the Pittsburgh district.

Q. In giving your statement relative to the open-hearth furnaces, Mr. Roberts, I do not think you stated the number of men required to operate an open-hearth furnace.

A. As I think I explained, our units of measurement in the two cases would in the manufacture of wrought iron be a puddling furnace, and in the manufacture of open-hearth steel an open-hearth furnace, for instance, the one having a capacity of four tons in twenty-four hours and the other 100 to 150 tons in twenty-four hours. Of course a plant of one furnace would not be commercially economical. It is difficult to give exactly the number of men or compare the number of men in the two plants because they would be so widely divergent in character, but you might say as a general proposition that basic steel blooms, which would be the equivalent of muck bar, would be produced from pig iron at less than one-half the cost of muck bar, but as to the separation of labor alone from other costs, I would not be prepared to give that or exactly the number of men, but in the manufacture of steel the number of men per ton are vastly less than in the manufacture of wrought iron.

Q. You have testified at some length as to the development

of the art. What is the fact as to whether or not plants become obsolete in the steel and iron industry before they are actually worn out, because of the necessity for replacements and renewals?

A. As a rule the past history of the manufacture of iron and steel has shown very clearly that machinery does not wear out from use, but becomes obsolete from changes and developments which take place from time to time in the art. Hence it is necessary in figuring costs to set up a very ample depreciation fund to cover this constant change which is taking place and which may render, from time to time, perfectly good machinery obsolete, so that it must be destroyed and replaced with other machinery.

Q. You were speaking a while ago about the economic necessity of this integration. Are there concerns of considerable magnitude that have not integrated successfully prosecuted, turning out a certain kind of steel products?

A. Only those in which tonnage plays no important factor whatever. There may be some concerns producing a product of high money value, with very small tonnage, composed of steel, in which integration would play very little part; for instance, the manufacture of wire cloth or wire screen, or something of that character. There are successful concerns to-day who have not integrated in the manufacture of their own steel, but those are of a character where tonnage plays no part. Where you come to a large tonnage, however, or a comparatively large tonnage, I know of no successful concern to-day which has not integrated.

Q. What about the Crucible Steel Company?

A. There is a concern in which tonnage is comparatively small and price high. It is not essential that it should control its raw material because its processes are of such a nature that it renders it unnecessary. It manufactures tool steel, a very special branch in itself, with high prices and comparatively small tonnage.

Q. Does the percentage of the cost that labor that is put on the finished product bears to the total cost have anything to do with the necessity of having plants integrated?

A. Of course labor is a very important item in the manu-

facture of iron and steel, and in proportion as you can integrate and make your process a continuous operation, you will reduce your costs of labor.

Q. How does the percentage of the labor cost in the heavy steel products of these integrated concerns compare with the percentage of the cost in the highly-finished articles that you have instanced, such as wire cloth and others?

A. Labor in highly-finished products, of course, would play a more important part than the labor in the less highly-finished or heavy-finished products. Labor would be the most important cost there.

Q. Rather than the material?

A. Rather than the material, yes; labor per ton.

Q. You stated a while ago that the independent units that went into some of these companies, like the tin plate and others, could not have afforded to integrate to the extent of making their own steel. Will you explain a little more fully why that is, as to the capital necessities, and as to the extent of the raw material they would need?

A. For each one of those independent units to have become of sufficient size to have substituted steel for wrought iron in their manufacture would have made such a stupendous over-production, far beyond the demand, that it would have been an economical absurdity and impossibility. It could not have taken place. The money could not have been obtained. There was not sufficient capital which could have been obtained to produce any such result.

Q. How would it have been if each individual tin plate plant had attempted to produce its own raw material?

A. I make the same answer. It would have been a physical impossibility.

Q. You stated a while ago, Mr. Roberts, that a large number of companies retired from business or were financially unprofitable during this process of evolution in the days before 1900. Were there any periods during that time when the situation in that regard was more acute than at others?

A. It fluctuated somewhat, but the ten year period prior to 1900 had a number of important failures, some of them due to the fact that concerns did not substitute steel for

wrought iron, and others due to want of progressiveness on the part of their owners, so that their plants were not kept abreast of the most advanced state of the art. There were a number of important failures in that time.

Q. Were there any panic conditions during any of that period contributing to that situation?

A. Yes. There was a panic in 1893, and there were a number of failures, due to very considerable destructive competition during that period.

Q. Can you give any examples from your recollection of companies that failed during the ten year period you have mentioned that were engaged in the iron and steel industry, or were financially embarrassed?

A. The Pennsylvania and the Maryland Steel Companies.

Q. Just a moment. They are still in operation, are they not?

A. The Pennsylvania and the Maryland were in the hands of receivers and then reorganized, fresh capital put in. The Catasauqua Manufacturing Company, the Pottsville Iron & Steel Company, the Pottstown Iron Company, the Diamond State Iron Company.

Q. Where were they located?

A. Wilmington, Delaware; the Chester Rolling Mill Company, the Montour Iron & Steel Company. There was a plate mill at Baltimore, I do not recollect the name of it; I recall the works very well.

Graff, Bennett & Company of Pittsburgh; Oliver & Phillips, Pittsburgh, and the Oliver Iron & Steel Company, Pittsburgh.

Q. Was that latter company afterwards reorganized?

A. I think it was, yes.

Q. Can you think of any others?

A. There was what was known as the Superior Rolling Mill Company, of Pittsburgh; I do not recall the exact title of it. There was also the Vulcan Steel Works at St. Louis, an important Bessemer concern making steel rails; and I think there was a concern of the name of James Wood & Company, Pittsburgh. A Rome concern at Rome, New York, the Rome Rolling Mill Company, I think. It is like going into a grave-

yard to dig these things up; this is a great many years ago, but for greater sufficiency I would refer to the Directory of the Iron and Steel Works as of those periods, 1898 and 1896 and along there, giving a complete list of the abandoned works. They were very numerous.

Q. Did the Midvale Company ever get into financial trouble during that time?

A. The predecessor of the Midvale Company of Philadelphia did, William Butcher & Sons. It was afterwards re-organized as the Midvale Company.

Q. Was that during the same period?

A. That was some time prior to the period between 1890 and 1900; it would be prior to 1890.

Q. Did the Passaic Rolling Mill Company ever have any financial difficulty?

A. Yes, they failed.

Q. During that period?

A. About that time; about the latter part of that time. About 1900 they failed.

Q. You have given the ones that you recall. Are you able to say whether there are others that you can not just now name?

A. I am positive of numerous others, but I do not recall the names at this time. There never was a year during that ten year period that there were not numerous failures in the iron and steel trade, with considerable aggregations of capital; I will say they were very numerous, so numerous that probably in some years it would amount to more than 100 failures in that period.

Q. You say some years it would amount to more than 100 failures. How was it in the panic days, following the panic of 1893? Were there many or few failures?

A. As a result of that panic, failures were numerous.

Q. You recall the panic of 1907? There has been a good deal of testimony about it in this case.

A. I recall it very well. I also recall very well the panic of 1893. They were very similar in the effect upon manufacturing concerns. I recall in the panic of 1893 we had to buy cash to make our payrolls. We could not get the cash from

the banks. They acted entirely in a similar manner to their actions in the panic of 1907.

Q. That is, the banks did.

A. The banks did. We went in the open market and bought cash for our payrolls. The banks would not furnish it; although we had sufficient money on deposit to cover our payrolls, we could not get the cash, and as a result, just after 1893, I think the following year probably, there were more failures in the iron trade than in any succeeding year in that ten year period.

Q. Were there any failures in the iron and steel trade caused by the bankers' panic of 1907, so far as you know?

A. I recall no failure of moment in the iron and steel trade since 1907 excepting that of the Central Iron & Steel Company of Harrisburg, Pennsylvania, which I think went into the hands of a receiver within the past two years.

Q. That was a case of defalcation, wasn't it?

MR. DICKINSON: I object to that.

THE WITNESS: I am not familiar with the causes, but it has been within the past two years.

By MR. SEVERANCE:

Q. Then the results to the iron and steel industry following the panic of 1907 were in no way comparable to the results that followed after the panic of 1893; is that true?

MR. DICKINSON: Objected to as leading.

THE WITNESS: That is a correct statement.

By MR. SEVERANCE:

Q. Mr. Roberts, was there at any time any change in the method of placing rail orders, if you know, by the railroads?

A. Yes. During the presidency of Mr. Cassatt of the Pennsylvania Railroad, about the year 1900, he inaugurated a system for the Pennsylvania Railroad of making his purchases yearly at about the end of each calendar year for the succeeding one, and also proportioning his orders among the various rail mills, somewhat along the lines of their respective freight tonnages; not exactly accurately in regard to the latter point. This was done partially from the fact that

they established a system of yearly budgets for their ensuing year's work, and also from the fact that they believed it policy——

MR. DICKINSON: I object to the statement of any belief of the policy of the railroad company as incompetent and hearsay.

By MR. SEVERANCE:

Q. Go ahead.

A. And they did it for the reason that they desired, as far as possible, to give uniform treatment to manufacturers along the lines of their road. Prior to that time purchases of rails were made from time to time as requirements might warrant; many of the other leading railroads of the country, upon the inauguration of this policy, pursued the same, so that from that period on rails have usually been bought within a very few months covering the entire subsequent year. This is a distinct change from the methods of handling this business prior to 1900.

Q. What effect, if any, did that new system have upon the price of rails as regards uniformity of the same through the year?

MR. DICKINSON: That is objected to as irrelevant, calling for an opinion of the witness, and incompetent.

THE WITNESS: Of course a railroad purchasing its rails for a year's requirements establishes a single price for that period of time. There is also another reason since 1900 for the maintenance of a uniform price.

By MR. SEVERANCE:

Q. And what effect upon the price paid by other companies was occasioned by this initial order made by the Pennsylvania or some other large system?

A. It would of course establish a price, but bear in mind in this discussion of a price, a continuing price, for rails since 1900 or 1901 of \$28 per ton is theoretical and does not represent——

MR. DICKINSON: I must remind the witness he is going beyond any question that has been asked him, and volunteering statements.

By MR. SEVERANCE:

Q. I will ask you another question. Then as I understood your answer, the purchase by the one large company would make a price for the others?

A. That is correct.

Q. That is correct?

A. That is correct, provided the others purchase the same class of rails under the same specification.

Q. So that the net result of the whole thing is that that would make the price for the year for the rails of that particular specification?

A. That is correct.

Q. There has been a good deal of testimony in the case with reference to a uniform price of \$28 a ton for rails over a period of a number of years. What is the fact as to whether or not that is the price that has been paid by the different roads, and if not, what variation has there been?

A. \$28 a ton is what might be termed a card price, or a foundation price, from which other prices may be established, varying with the specifications, chemical requirements, etc., of the purchaser. The actual sales of rails made during this period were not at a uniform price of \$28, or any other uniform price, but have varied from time to time, as I have always stated, due to the nature of the requirements of the consumer, and have probably in the majority of cases varied between \$28 and \$34 a ton. This \$28 basing price has remained as it has for another reason than those already given since the year 1900, due to the fact—

MR. DICKINSON: Are you speaking of the period since 1900 now?

THE WITNESS: I am. As I said, it has remained as it has for another reason than those already given, since the year 1900, due to the fact that the rail business is a peculiar one, not comparable with any other line of steel production. The sellers are few, the purchasers are comparatively few, and the use is strictly confined to one purpose. Between the producer and the consumer it is essentially a matter of bartering a product of the steel maker for the product of the transportation company, namely transportation.

Prior to 1900 there was an opportunity to bargain for transportation, which was at no definite, fixed price. Since 1900, by governmental regulation, railroads can no longer trade in transportation at varying figures. Therefore the basing price of steel rails, which is a theoretical point of departure, has remained at the same figure; but actual sales have been fixed at varying prices in accordance with specifications.

Q. In what year was the \$28 base rate first applied? In 1900 or 1901?

A. In 1901, I think; but the inauguration of the yearly purchases I think took place in the year 1900, or soon after Mr. Cassatt became president of the Pennsylvania railroad, which, I think, was in that year.

Q. Does the Pennsylvania Railroad, Mr. Roberts, of which you are a director, use upon its main line any Bessemer steel rails?

A. Not at present.

Q. Do they have rails of some particular specification other than the standard specifications, or not?

A. For some years past they have used open hearth steel rails. Bear in mind that the price of \$28, the uniform price, applies only to what is termed standard Bessemer rails, which was a term introduced a number of years ago, after the issuance by the American Society of Civil Engineers of what they termed standard specifications for Bessemer steel rails. This was adopted by some railroads of the country, but not by all, and when we speak of standard Bessemer steel rails, it refers to rails under those specifications of the American Society of Civil Engineers.

(By request of Mr. Severance the stenographer repeated the last question, as follows:)

“Q. Do they have rails of some particular specification other than the standard specifications, or not?”

THE WITNESS: As I said, their requirements are now for open hearth rails exclusively.

By MR. SEVERANCE:

Q. Are there different specifications of open hearth rails used by different railroad companies?

A. There are, and they are subject to different prices, varying according to chemical composition, mechanical drop tests, and so forth.

Q. How are those prices arrived at as between the railroads and the rail makers, so far as the matters have come under your observation?

A. By conference and consultation.

Q. Between whom?

A. Between the maker and the consumer. I can recall an instance during the time I was not connected with the United States Steel Corporation, but was a director of the Pennsylvania Railroad, when I once came with the President of the Pennsylvania Railroad to New York and conferred with officers of the subsidiary companies of the United States Steel Corporation in regard to prices for rails, and a general discussion of the specifications which we were then introducing on the Pennsylvania Railroad was had. The price which had been asked for these rails the railroad officials thought too high. We discussed the proposition, and they named us a lower figure than that first asked. That was in about the year 1908.

Q. What year did you become a director of the Pennsylvania Railroad, if you remember?

A. I think in 1906 or 1907.

Q. Are the specifications of the Pennsylvania Railroad the same year after year or do they vary?

A. They vary from time to time as their engineers may believe by changing them they may obtain a more uniform and safer material.

Q. Do the prices remain the same or do they vary when the specifications vary?

A. They vary with the specifications.

Q. During the time you have been a member of the Board of Directors of the Steel Corporation, either during your original connection with the company in 1900 to 1902, as you have mentioned, or during your more recent connection, has or has there not been any agreement or understanding to your knowledge between the Corporation or its subsidiaries and other manufacturers of rails as to the maintenance of the price of rails?

MR. DICKINSON: Do you mean from his knowledge, so far as he knows?

MR. SEVERANCE: I cut that out. I changed my form of expression.

MR. DICKINSON: I would like to understand what you mean by that.

(By request the stenographer repeated the pending question.)

MR. SEVERANCE: Isn't that clear?

MR. DICKINSON: No; it is not.

MR. SEVERANCE: What is the matter with it?

MR. DICKINSON: It is indefinite because it does not indicate whether to his knowledge he knows it or whether he is speaking so far as his knowledge goes.

MR. SEVERANCE: That is too deep for me.

MR. COLTON: That is quite clear; a man may know a thing and yet not know anything about it at all.

MR. SEVERANCE: That may be the kind of knowledge you have, but that is not the kind Mr. Roberts has.

MR. DICKINSON: I object to the question as indefinite.

MR. SEVERANCE: All right; go ahead.

THE WITNESS: I have no knowledge of any such.

By MR. SEVERANCE:

Q. Have you had any knowledge of any such arrangement at any time during that period?

A. I never did have.

Q. Have you any knowledge of the price of rails paid by the various railroads to manufacturers being arrived at during that period in any other way than the way you have testified to as between the Pennsylvania Railroad and the Steel Corporation, namely, by negotiations between the consumer and the maker?

A. I have no knowledge of any other arrangement whatsoever.

Q. Mr. Roberts, which is the more important to a railroad in these days, considering the class of equipment that runs over the rails, and the speed of the trains, the character of the rails, or the price?

MR. DICKINSON: That is excepted to as irrelevant.

THE WITNESS: I only speak from positive knowledge of the railroad with which I am connected, namely the Pennsylvania Railroad, but I have a general knowledge of the situation throughout the country, from the fact that very recently I was a member of the committee of the American Society of Civil Engineers for the change and amendment of the society's specifications for steel rails, and while on that committee I came in contact with the chief engineers of most of the railroads in the United States, and from that connection, as well as my own with the Pennsylvania Railroad, I should say that the universal thought of the railroad operating officials of this country at the present time is the question of quality and not of the price of rails, which is shown by the large percentage of rails at the present day——

MR. DICKINSON: Objected to as argumentative.

THE WITNESS: (Continuing)—which are sold above the price of \$28 a ton, or which are sold to special specifications other than those which would be termed standard Bessemer rails, the output of open hearth steel rails today at the higher figure exceeding the output of Bessemer rails.

By MR. SEVERANCE:

Q. Has or has not the proportion of open hearth rails purchased by railroads increased during the past ten years?

A. Very largely; the output of open hearth steel rails today exceeds that of the Bessemer rails.

Q. How was it at the time the Steel Corporation was organized?

A. Practically all Bessemer, but even then under varying specifications.

Q. Did those varying specifications as to Bessemer rails make any difference in the price?

A. It did, but to what extent I am not prepared to give figures.

(Whereupon a recess was taken until two o'clock P. M.)

AFTER RECESS.

PERCIVAL ROBERTS, JR.,

the witness under examination at the taking of the recess, resumed the stand.

DIRECT EXAMINATION (Continued),

By MR. SEVERANCE:

Q. Mr. Roberts, there was one question I neglected to ask you this morning relative to the contrast between the situation in the days of wrought iron production and the succeeding era of steel production. What was the fact as to whether it was feasible in the operation of puddling furnaces to conduct a continuous operation, not permitting the metal to cool?

A. In the production of wrought iron it was not possible to integrate or to make a continuous operation to any such extent as was possible in the manufacture of steel. In fact, the operation of producing the wrought iron was a sequence of entirely disconnected operation, whereas the success of modern steel making is dependent entirely upon a continuous operation. It is essential in one case to the commercial success of steel making, whereas in the other case it was in no sense essential, and such integration as took place affected the industry only to the extent of some reduction, possibly in the cost of transportation.

Q. You testified yesterday that upon the organization of the United States Steel Corporation you became a director and member of the executive committee. What were the duties of the executive committee in general? I am not asking you what they are stated to be in the by-laws, but, as a matter of fact, what classes of business did they consider and act upon?

A. The executive committee were salaried officers and the committee was composed principally of the former presidents of the subsidiary companies. The purpose was somewhat on the same lines as a cabinet. They were supposed, each one, to be an expert in his own individual lines, and that they should meet daily for consultation and advice to the presi-

dent as might be required. They all had individual offices in this building and were supposed to be in daily attendance.

Q. What classes of matters were submitted to them for consideration?

A. Policies in regard to manufacture and such advice as might be advisable to give to the officers of the subsidiary companies through the president of the United States Steel Corporation. They also passed on various propositions and made recommendations to the finance committee which would require the expenditures of money.

Q. What, if anything, did they have to do with the acquisition of additional facilities or plants or ore bodies?

A. They from time to time passed upon the same, and if it required an expenditure of money, they made recommendations to the finance committee of the Steel Corporation in regard to the same.

Q. Suppose that a proposed expenditure was not deemed by the executive committee desirable, would that go to the finance committee at all?

A. It would not.

Q. Would their decision be final?

A. The decision would be final by the executive committee.

Q. What, if anything, did they have to do with reference to formulating the policies of the company in relation to trade or the places where trade should be pushed or carried on?

A. All such policies would come before them for review, and they would pass upon them.

MR. SEVERANCE: I would like to have this marked for identification.

(A book containing the executive committee meeting minutes of the United States Steel Corporation was marked temporarily, for identification purposes, "Defendants' Exhibit 64 a.")

By MR. SEVERANCE:

Q. I show you Defendants' Exhibit 64, a, entitled "United States Steel Corporation, executive committee." Do you recognize that book?

A. I do.

MR. DICKINSON: What period does that cover?

A. It begins with the organization of the Corporation, April 9, 1901, and runs down until the committee was discontinued, June 9, 1903.

MR. DICKINSON: Are you going to offer that in evidence?

MR. SEVERANCE: No. I will call attention to certain things. You have placed in evidence, Judge Dickinson, a number of the entries in this book; they are in your Government exhibits. I want to call attention to certain entries there of meetings at which Mr. Roberts was recorded as present.

MR. DICKINSON: The same ones that we called attention to?

MR. SEVERANCE: Some of them are and some of them are not.

MR. DICKINSON: I will object to your calling his attention to anything we have not called attention to.

MR. SEVERANCE: Yes, of course, but I want to have the book identified, so that I can direct his attention to certain matters and examine him about them, meetings at which he was present.

By MR. SEVERANCE:

Q. What is the book?

A. The book is composed of notes made of business brought before the Executive Committee at its various meetings, and the action taken in regard to same.

Q. Notes made at the time?

A. Notes made at the time by a clerk.

Q. And typewritten afterwards? He did not take them on the typewriter, did he?

A. No.

Q. These are minutes you have been looking over with me, as to certain matters contained therein?

A. They are notes, yes.

Q. I understand. They are not signed by the Secretary?

A. No.

MR. DICKINSON: How are they entitled?

MR. SEVERANCE: This is entitled "Executive Committee meeting held April 9, 1901." That is the first, and "Subjects discussed."

MR. DICKINSON: And on the title page?

MR. SEVERANCE: The title page, "United States Steel Corporation, Executive Committee."

By MR. SEVERANCE:

Q. These minutes, so far as appears from them, were not read and approved at subsequent meetings. What is the fact as to that, if you remember?

MR. DICKINSON: Objected to as immaterial and irrelevant.

THE WITNESS: At the meetings which I attended during the year I was a member of the executive committee there was present a clerk who made memoranda of various matters brought before us. The meetings were informal in character. There was considerable discussion took place in regard to various subjects, and the clerk made notes of the topics which we considered and the actions which we took in regard to the same.

Q. I call your attention to the notes of the meeting under date of April 23, 1901, appearing at page 31; on the margin it is entitled "Canadian business and trade relations in foreign countries," and I will ask you if you will read into the record the entry there appearing at the top of that page.

MR. SEVERANCE: That is the same meeting from which you introduced a quotation.

MR. DICKINSON: Has that been introduced in evidence?

MR. SEVERANCE: Not that particular entry. You introduced the following.

MR. DICKINSON: The one he is going to read has not been introduced?

MR. SEVERANCE: No.

MR. DICKINSON: We object to it as incompetent and irrelevant and self-serving.

MR. SEVERANCE: Read that, Mr. Roberts.

THE WITNESS: Shall I read the margin?

MR. SEVERANCE: If you please, and that entry.

THE WITNESS (Reading):

"Canadian business and trade relations in foreign countries. Mr. Roberts called for opinions of the committee regarding the policy of the Corporation respecting business in

Canada and foreign countries. Mr. Roberts stated that the German and Scotch mills are cutting into the Canadian business and it is a question whether it would be policy to retain grip on the trade or relinquish it altogether, and endeavor to take it up when conditions there are better. The Chairman suggested that it would be well to keep in business enough to maintain trade relations, and keep your foothold so as to be in a position to do business in the future. Mr. Converse believes in pushing the foreign trade even if there is little money in it now, and we will have all we can do at home, because there will come a time when we will need the business badly. Mr. Roberts pointed out that giving up your trade relations meant a great deal of missionary work to be done to bring it back, and that the cost of maintenance would pay. It was the sense of the committee that it does not favor withdrawing trade relations in foreign countries."

By MR. SEVERANCE:

Q. Do you recall that discussion at that time?

A. I do.

MR. DICKINSON: Did he give the date?

THE WITNESS: This is April 23, 1901.

By MR. SEVERANCE:

Q. That is the month the corporation was organized?

A. Yes.

Q. Who is meant by the Chairman, who was Chairman of the committee at that time?

A. Judge Gary.

Q. Do you recall that the sense of the committee was as stated in that minute?

A. I do.

Q. And from that time what was the policy adopted and carried out by the United States Steel Corporation with reference to continuously or otherwise engaging in foreign trade?

MR. DICKINSON: I object to his stating the question of policy; it calls for a question of fact, and not a conclusion of the witness.

THE WITNESS: Shortly after the formation of the Steel

Corporation, the executive committee had before it the question of what action the Corporation should take to develop and maintain the foreign trade. My own individual thought and decision in the matter was, and I urged at various meetings that we should, in order to maintain and increase our foreign trade, keep a foothold at all times in foreign markets, as distinguished from the practice which had hitherto been adhered to, of selling temporarily and then entirely withdrawing from time to time. This was agreed to by all the gentlemen who were members of the committee, and was put in practice on the start of the Corporation.

Q. I call your attention, Mr. Roberts, to a minute under date of April 11, 1901. That is a meeting of the executive committee of that date, a portion thereof appearing on page 14, under the heading of "foreign business." The Government introduced a portion of those minutes of this meeting, and I will ask you to read into the record this entry under the head of foreign business.

MR. DICKINSON: We object to reading any portion not introduced by the Government as being incompetent, irrelevant and self-serving, the Government having introduced what it did as an admission of the parties against interest.

By MR. SEVERANCE:

Q. Go ahead, Mr. Roberts.

A. Do you want me to read the date of the meeting, or have you had that?

Q. Yes; April 11, 1901. I have stated that in my question.

A. (Reading):

"April 11. Foreign business. At the suggestion of Mr. Converse it was recommended that the president of this company obtain information from the presidents of the constituent companies in regard to the manner in which they conduct their foreign business, and that this information might give particularly a list of the representatives at the different points, warehouses maintained, if any, and the expense of representation, etc."

Q. That was a meeting apparently two days after the first

meeting of the committee, the first meeting being on the 9th and this being on the 11th. Do you recall that matter coming up in that way from Mr. Converse?

A. I could not say at this time that I recall that actual incident, but I do know that those questions arose frequently at the very start of the Corporation.

Q. I now call your attention, Mr. Roberts, to the minutes of a meeting of the executive committee under date of May 9, 1901, extracts from the minutes of which meeting have been introduced by the Government. I will ask you to read the entry therein on pages 57 and 58 under the head of "Organization for Management of Sales Department of Foreign Business."

MR. DICKINSON: One moment. Is that a part of the same subject matter we introduced a part of?

MR. COLTON: No; it is not the same subject matter.

MR. DICKINSON: We make the same objection as formerly.

THE WITNESS: (Reading):

"Organization for Management of Sales Department of Foreign Business. The president informed the committee that he has a report from the sub-committee appointed by him to consider the subject of the sales departments in foreign countries. Their recommendation was that this branch of the business should be controlled by a standing committee of representatives of each of the companies interested who should handle the business as heretofore, save that Mr. Millard Hunsiker should be made chairman of the committee and be vested with power to decide any matters of difference which may arise in the committee from time to time.

"The preceding was the plan in a general way, and the matter was laid over for further discussion at the next meeting.

"The president offered the suggestion that it might be well to have a chairman of the sales representatives in New York. It was further suggested concerning the foreign business that the National Tube, American Steel & Wire and Bridge Companies' sales departments be consolidated in one office in London as far as may be practicable and that some similar plan be pursued with reference to the Carnegie, Illinois and National Steel Company."

By MR. SEVERANCE:

Q. Do you recall that action being taken at a meeting at which you were present?

A. I do.

Q. At about that time?

A. I do.

Q. Mr. Roberts, I call your attention to an entry appearing on pages 66 and 67 under date of May 28, 1901, two p. m., the heading being "Export Business as to Selling Agents," and will ask you to read that entry in the record, and I call attention to the fact that the entry immediately succeeding is copied in the Government exhibits, the entry of the same meeting.

MR. DICKINSON: I make the same objection.

THE WITNESS: "Export Business as to Selling Agents. The president presented a report dated May 28, 1901, addressed to him by Messrs. H. P. Bope, Millard Hunsiker, J. W. Downer, and J. A. Farrell, composing a committee heretofore appointed for the purpose of recommending some plan or basis on which the export business of the subsidiary companies should be conducted. This report embodied the following recommendations:

"1. That the business of the Illinois, Lorain, National and Carnegie Companies be consolidated in one office in London and be in charge of Mr. Hunsiker.

"2. The American Steel Hoop Company: That unless there are conflicting arrangements pending here the business of this company be divided as follows: Mr. Hunsiker to have control of the bar portion and of the heavier products, and that the American Steel & Wire Company take charge of the hoop and band business.

"3. That the sheet and tin plate business be given in charge of the American Steel & Wire Company with the power of enlarging to export business in these lines.

"4. That the business of the American Steel & Wire Company, the National Tube Company and the American Bridge Company remain in practically the same channels as now.

"5. That representatives of the four divisions given do form a committee for the purpose of general consolidation

but with the understanding that such committee is not to interfere with the management of the details of the different companies. That for such purpose these companies should be housed in one building as quickly as possible.

“6. That with regard to the location of the several export offices to handle the sale of the different products in this country, it is advised that this matter be left with the party in charge of sales.

“7. That sales abroad be confined as largely as possible to finished products.”

That ends this report. “There was some discussion over this report, and it was finally voted that it be approved after adding thereto the following:

“The representatives of the selling departments should be advised that the policy to be pursued is to maintain our export business under all circumstances, and to increase the same when expedient; that the quantities to be sold from time to time should depend upon circumstances and conditions of trade and the representatives should keep in close touch with the presidents of the subsidiary companies as well as with the president of this company. The idea being that our export trade is not for the purpose of disposing of surplus products from time”—evidently something omitted here—“and thereby make the business to a certain extent a temporary one, but that it is the intention to supply at all times as large a market as our facilities will permit. It was recommended by vote of the committee that a copy of the report of the special committee with the preceding addenda be handed to the members of the export committee, and that each of the subsidiary companies be thoroughly advised what the general policy is to be.” There is evidently a word left out.

MR. SEVERANCE: The words “to time” evidently are left out.

By MR. SEVERANCE:

Q. Mr. Roberts, do you recall being present when that matter was discussed that is therein set forth?

A. I do, very clearly.

Q. Was the action taken as shown in that minute that you have just read, that conclusion arrived at?

A. It was, and the export business was reorganized along those lines, consolidating some of the companies and bringing them all into one office in London. I know that from my own knowledge, because I visited that office personally.

Q. Up to the time that you left the Steel Corporation in 1902, or since you have returned to the Steel Corporation, have you known of any departure from the policy therein laid down as to the extension and continuous maintenance of foreign trade?

A. So far as I know, that policy has been maintained since the date of that meeting, at all times.

Q. Previous to the time the Pencoyd Company went into the American Bridge Company, had the Pencoyd Company carried on any foreign business?

A. We had from time to time exported fabricated material, but these were isolated instances, and we made no continuous attempt in the matter. This was due to the fact that our lines of goods were not diversified, and we were not warranted in maintaining so extensive an organization as would have been necessary. For a few years prior to 1909 we maintained an agency in London for Great Britain and their colonies. At one time we had an agency in Japan, but as I say, our exports were isolated instances.

Q. Did you maintain foreign warehouses?

A. No.

Q. Did the Bridge Company?

A. No.

Nor did the Bridge Company maintain any agencies other than those of the A. & P. Roberts Company, which were in existence at the time of the formation of that company.

Q. You spoke of an agency in Japan. Did you maintain an independent office in Japan, or how was that agency carried out?

A. No; it was a commission agency which existed for a few years, and then finally was abolished, and the business was conducted through a Japanese firm of bankers in New York City.

Q. How were you able to get into the Japanese business at all?

A. By making designs for bridges which were superior to those which the Government of Japan had adopted some years prior for its railroad work, which had originally been made by English bridge builders. They substituted the American designs, and based their bridge specifications on American practice. That enabled us to compete successfully against the British builders.

Q. Was that a large business or a small business—the Japanese business.

A. It was not compared with our total output a large business. It was comparatively small.

Q. Was it continuous or intermittent?

A. It was intermittent. Usually our foreign contracts were something of a peculiar nature which enabled us to reach those foreign markets and it was different from a continuing trade where your goods were offered freely at all times. For instance, we had a contract to build a bridge for Lord Kitchener across the Atbara River, to enable the British troops to reach Khartoum. The British builders wanted two years to build the bridge, and we shipped and erected it in a few months. As I say, however, we could make no continuous attempts unless something of this kind occurred, due to the fact that we did not have a sufficient diversity of products to enable us to maintain agencies and to supply foreign markets with a sufficient variety of goods.

Q. What advantage, if any, did the Steel Corporation possess after its organization in getting into and continuing in the foreign business, over other companies?

A. It had all the advantages which a large department store would have as compared with those in each individual line of business which it might comprise. It was at all times able successfully to push its foreign trade, due to the carrying of a complete line of goods, so that if a man required a specification embracing a large variety of material, he could go to that agency or warehouse and obtain his entire requirements. It was purely a department store proposition.

Q. Did the possession of this diversified line of business make it possible to maintain agencies which could not have been maintained by parties with only a single line to sell?

A. That is what I mean to say, that the overhead charges were so distributed by this diversification of product that it was possible to maintain those agencies, which would have been impossible if the line of material had been more restricted, due to less frequent sales.

Q. Mr. Roberts, I call your attention to the minutes appearing in this book on pages 17 and 18, under date of April 12, 1901, three days after the first meeting, the heading of the minutes being "Plan to obtain sundry data regarding the operations." You are reported as present at that meeting, and I will ask you to read that entry into the record.

MR. DICKINSON: Is that a part of any that we introduced?

MR. SEVERANCE: I am not sure that it is.

MR. COLTON: It is not a part of the subject matter.

MR. SEVERANCE: I have no memorandum that you have introduced anything from that meeting, so you had better make your objection on the assumption that you have not.

MR. DICKINSON: Objected to as incompetent and self-serving.

THE WITNESS: (Reading):

"Plan to obtain sundry data regarding the operations. The president proposed to the committee for consideration that he appoint a committee of three to gather certain data. First, see where freights can be saved in delivery of material, cleaning up of scrap in big lots, shipment of material, and from what mills, as well as the solving of the many problems of that kind that are likely to arise. Second, establish a bureau of comparative costs, to take up the compilation of costs and investigations as to why costs are good and bad. Third, have some man who is capable of reporting to this committee as to the best place to make renewals, make improvements, and so forth. It was moved and seconded that the president of this company be authorized to arrange for the appointment of a committee in accordance with the suggestions outlined by him in the above plan."

By MR. SEVERANCE:

Q. What was done, if anything, relative to the establish-

ment of this bureau of comparative costs and how soon was it done?

A. That was put into effect immediately, and it was the custom to furnish each member of the Executive Committee monthly with these comparative cost sheets; as to the other matters, they were reported to the president, who from time to time brought them before the committee for recommendation.

Q. You say these costs were submitted to the executive committee once a month?

A. They were monthly cost sheets.

Q. To whom else were they exhibited?

A. They were also put into the hands of the operating officials of the various subsidiary companies, so that monthly they might see what rank their individual works took in reference to all other works of the subsidiaries of the Steel Corporation, and they were ranked in merit according to these monthly reports.

Q. What was the result of thus exhibiting to the respective heads of the departments these comparative cost sheets?

A. We found very soon that those works which at the start seemed to have been comparatively high were soon able by analysis of these figures to reduce their costs, in various respects, which proved extremely beneficial so far as the operations of the plants were concerned.

Q. Can you give us any illustrations of the character of improvements that were brought about in this way?

MR. DICKINSON: That is objected to as irrelevant.

THE WITNESS: Well, only in a general way.

By MR. SEVERANCE:

Q. But you were advised of the results?

A. We saw the results from month to month from the various reports.

Q. Did or did not this system of exhibiting to the various heads of departments comparative cost sheets result in any rivalry among the various mill managers?

MR. DICKINSON: Objected to as irrelevant.

THE WITNESS: It did; it inaugurated a system of healthy competition between them, with very beneficial results.

By MR. SEVERANCE:

Q. You testified this morning relative to the situation as to the ownership of ore, blast furnaces, etc., in the old days, that is, as to their being in individual ownership. What in your opinion should be the policy of a large corporation like the Steel Corporation, or Jones & Laughlin, or the Pennsylvania, or any of these other large steel manufacturers, as to maintaining an ore reserve?

A. It is absolutely necessary for a modern steel-making establishment to provide itself with a large ore reserve, first, to enable it to have a sufficient variation of quality of ore to at all times maintain a uniform quality of its finished product. It is also necessary to have a large ore reserve to protect that portion of its capital which is invested in manufacturing establishments, and which in no wise is protected by any extinguishment funds which may be set up to provide for the extinguishment of its ores.

Q. Will you explain that a little in detail, why those funds were not protected?

A. The share capital invested in that portion of its business which embraces purely its manufacturing plants—its only protection is the successful life of these plants, rendered possible in having a supply of ore for a number of years ahead, in my opinion not less than fifty.

Q. You mean fifty years?

A. Yes. Now, of course, in raw material you are dealing with your principal account and not income; your manufacturing is purely an income proposition, as your raw material proposition is one of the extinguishment of principal. Now, funds which may be set up to provide for the extinguishment of that principal so far as raw material is concerned does not protect the share capital invested in your purely manufacturing business. Where such protection has not been given even in old times there is a continuous record of abandoned furnaces due to the extinguishment of their supplies of raw material. Therefore it is, from the standpoint of scientific shop management, from the standpoint of conservation, absolutely necessary to maintain and protect yourself with a supply of raw material sufficient to last for a number of years,

and also to continually keep purchasing fresh supplies as those supplies heretofore used become exhausted. At no time would it be good business judgment to permit that supply to decrease to any appreciable extent.

Q. Does your opinion that you have just given as to the necessity of a fifty-year reserve of ore apply also to coal?

A. It would apply to all raw material, all natural resources which might be necessary for the production of your final finished product.

Q. Among which is coal?

A. Coal, limestone, ore, or any other natural resources or products of nature.

Q. Do you happen to know, Mr. Roberts, whether or not, in the opinion that you have just stated, you reflect the views of other steel manufacturers than those connected with the United States Steel Corporation?

MR. DICKINSON: Objected to as calling for the opinion of the witness and of others, and as hearsay.

THE WITNESS: All the modern steel corporations have adopted this policy, and they are all protected to the extent that I have suggested.

By MR. SEVERANCE:

Q. You mean all the others outside the Steel Corporation?

A. All modern steel corporations. I speak of all as distinguished from the United States Steel Corporation.

Q. That is what I say; you are speaking of the others?

A. All modern corporations.

Q. While you were a member of the executive committee during 1901 and 1902 did there come before that committee for action the question of acquiring additional ores from time to time?

A. There were a number of propositions which came before the executive committee during that time in regard to the securing of additional ore properties.

Q. In acting upon those various propositions whether they were accepted or not, upon what was the conclusion and action of the committee based?

MR. DICKINSON: Objected to as irrelevant—the minutes

are the best evidence—and calling for the action of others, and based on their mental conclusions, and incompetent.

THE WITNESS: Each proposition was considered individually, and action was taken based on its merits; and as to whether the nature of the material was such as would make it advisable for our purposes or manufacturing purposes to secure it. Some were turned down; some were accepted.

By MR. SEVERANCE:

Q. Did the matter of securing a monopoly or preventing a competitive corporation from securing any of these properties have anything to do with your action?

MR. DICKINSON: Objected to as incompetent and a self-serving statement.

THE WITNESS: Never.

By MR. SEVERANCE:

Q. I call your attention, Mr. Roberts, to a meeting under date of April 22, 1901, appearing in Exhibit 65 for identification, at which meeting you seem to have been present, and I will ask you to read into the record the entry therein appearing under the head of "Antikokan Mines."

MR. DICKINSON: Excepted to as irrelevant, incompetent and a self-serving statement.

THE WITNESS (Reading): "This is a hard ore mine in Canada, cost now \$325,000, in payments extending over three years. It is in a new region on the north shore of the lake in Canada. There will be about 120 miles haul to water. It is stated that the Lackawanna people desire to buy it. Upon the question being submitted to vote, the result was the chairman, Mr. Schwab, Mr. Roberts, Mr. Converse and Mr. Reid voted in the negative. Mr. Edenborn was in the affirmative. Mr. Edenborn thought the price was low, and it was a valuable property.

"Mr. Reid does not feel like making these purchases now, and Mr. Roberts believes in going slowly, but is not sufficiently informed. He votes no. Mr. Schwab thinks that if we accept this now, it will serve to advance prices on similar propositions, and it would be good policy to turn it down. The

chairman suggested that the president decline the proposition providing a final answer must be given now, but that the option be extended for four months for further examination, which was approved by the committee."

Q. Do you recall the matter therein stated?

A. I do.

Q. And do you recall whether or not that property was purchased?

A. It was not.

Q. I call your attention to an entry of the Executive Committee meeting under date of June 25, 1901, page 82. You appear to have been present at that meeting, and I will ask you to read the entry therein, under the head of "Rainey Coke Proposition."

MR. DICKINSON: That is objected to as incompetent, irrelevant and self-serving.

THE WITNESS: (Reading):

"The chairman stated that someone claiming to know him, and who claimed to have absolute control temporarily of the Rainey Coking proposition, which consists of 7500 acres of Connellsville coking coal, well improved, having 2800 ovens, would sell the property to this Corporation for \$20,000,000 common and \$20,000,000 preferred stock of this Corporation; the proposition to be treated in the strictest confidence.

"Upon motion it was voted that the chairman write to Mr. J. H. Spring a declination of the offer."

Q. Do you recall that action being taken, Mr. Roberts?

A. Yes; I do.

Q. I call your attention, Mr. Roberts, to a meeting of the executive committee November 18, 1901, at which you appear to have been present, at page 114, and I will ask you to read into the record the entries therein appearing under the head of "Alabama Ore Properties" and "Iron Ores at Port Henry."

MR. DICKINSON: That is excepted to as irrelevant and incompetent and self-serving.

THE WITNESS: (Reading):

"Alabama Ore Property. This property is located near

Florence, Alabama, and was brought to the attention of the committee by a letter from Mr. William Edenborn to the president. The property is on the line of the Louisville & Nashville Railroad.

“Mr. Gayley stated that it would be a good property if we desired to enter into the foundry iron business. The president does not believe the Steel Corporation should take it. The chairman stated that he would prefer investing in properties adjacent to our own ore properties rather than to buy up these isolated pieces. Upon motion, duly seconded, it was voted that the proposition be declined. Mr. Edenborn did not vote.”

Q. Do you recall that action being taken, Mr. Roberts?

A. I would not recall, without the note before me, that individual transaction.

Q. Is your recollection refreshed by looking at the entry, or do you not recall?

A. Only to the extent that it would be one of those propositions of which I spoke that we turned down. I do not recall it specifically.

Q. Read the other entry on that page.

A. (Reading):

“Iron ores at Port Henry——”

MR. DICKINSON: The same objection.

THE WITNESS: (Continuing reading):

“The president read a letter from Mr. James Gayley, first vice-president, embodying a report on ore lands of Messrs. Witherbee, Sherman & Company at Minesville, near Port Henry, New York. This report contains information about the quantity, quality and cost of mining the ore and the extent of the property owned by the interested parties. On motion duly seconded it was voted that the president decline the proposition.”

By MR. SEVERANCE:

Q. Do you remember any action of that kind being taken relative to the acquisition of the Port Henry ores?

A. I do recall that, yes.

Q. Is the Witherbee & Sherman property at Port Henry a large or a small property?

A. Very large.

Q. Is it a newly discovered ore body, or has it been worked for a long time?

A. It is a very old mine. The deposit is of great magnitude. It is in successful operation and has been for many years in successful operation.

Q. You say it is still in operation?

A. It is still in operation.

Q. Are you advised as to whether any of the competitors of the Steel Corporation have, since 1908, acquired any interest in those properties?

A. Only by hearsay; but I think the Lackawanna have an interest in it. I would not be positive of that.

MR. DICKINSON: I object to his testimony on that, then.

MR. SEVERANCE: I do not mind. Mr. Gayley testified absolutely that they had, so it does not make any difference.

MR. DICKINSON: I do not care whether you mind or not. I put my objection down.

MR. SEVERANCE: Yes; certainly. I have no objection to your objection.

By MR. SEVERANCE:

Q. Here is one I passed over by accident: I call your attention to an entry in the minutes of the meeting of April 11, 1901, at page 13, under the head of "Cleveland-Cliffs proposition." I will ask you to read the entry therein appearing under that head.

MR. DICKINSON: Objected to as irrelevant, incompetent and self-serving.

MR. SEVERANCE: I call attention to the fact that quotations from the minutes of this meeting have been made by the Government in their exhibits.

MR. DICKINSON: That part we stand by.

MR. SEVERANCE: I am glad you are giving it a character.

MR. COLTON: It was put in as an admission.

By MR. SEVERANCE:

Q. Go ahead, Mr. Roberts.

A. (Reading):

"President Schwab submitted a letter from Mr. Gayley

concerning this proposition. Statements were made by the Chairman and by the President that the price named was beyond consideration. It was moved and approved that the President be requested to decline the proposition made by the Cleveland-Cliffs people."

Q. The Cleveland-Cliffs are still operating mines, are they not?

A. I so understand.

Q. A large company, is it not?

A. A large and important ore concern.

Q. I call your attention to the minutes of a meeting of April 23, 1901, page 30, under the head of "Alabama Steel & Wire Company option," and ask you to read that into the record.

MR. DICKINSON: The same objection.

THE WITNESS: (Reading): "This question was brought up again from a previous meeting. After some discussion on the lines of the prior meeting, it was voted that the president of this company decline the proposition at the price named."

By MR. SEVERANCE:

Q. You remember that property, offered by Mr. Gates?

A. I do.

MR. DICKINSON: That is also objected to because it refers to some minute on the same subject-matter.

MR. SEVERANCE: I will put it all in. I will go back and put all three of them in.

By MR. SEVERANCE:

Q. I call your attention to a meeting of April 11, 1901, page 13, an entry under the head of "Alabama Steel & Wire Company option," and will ask that that be read also in that connection.

A. (Reading): "Alabama Steel & Wire Company. Concerning a letter from J. W. Gates to the president of this company read in the committee, it was agreed that the president be instructed to advise Mr. Gates that we are not ready to consider the proposition and will not be ready for about two weeks. In the meantime, if Mr. Shuler would like to talk upon the subject, the president would be glad to see him."

Q. I call your attention to a meeting on April 22, 1901, page 27, and ask you to read that entry, under the heading of "Alabama Steel & Wire Company option."

MR. DICKINSON: The same objection.

THE WITNESS: (Reading): "The question of taking this property was discussed very freely. Mr. Edenborn was in favor of taking the property and closing up the plant. The chairman was impressed with the property if it could be bought cheap, because of its strategic position. He is opposed to it if the price is high, and would not favor its purchase under any consideration if it were intended to close up the plant. In this last proposition Mr. Converse agrees with the chairman. The president opposes its purchase on the question of policy, even though we could get it at a low price. It was finally recommended that the president be requested to decline the proposition."

MR. SEVERANCE: Those are all the entries on that subject.

By MR. SEVERANCE:

Q. I call you attention to a meeting of April 24, 1901, page 34 of the minutes, headed "Bridge Companies offered for sale." I will ask you to read that into the record.

MR. COLTON: The same objection.

THE WITNESS: (Reading): "Mr. Roberts asked the opinion of the committee as to the policy of the committee, whether or not they would entertain any proposition to purchase other bridge companies. He had then some propositions from small concerns, and it was the opinion of the committee that they had better be declined."

By MR. SEVERANCE:

Q. I call your attention to a meeting of June 25, 1901, page 80 of these minutes, and will ask you to read the entry on that page, under the heading "Youngstown Iron, Sheet & Tube Company of Ohio."

MR. DICKINSON: The same objection.

THE WITNESS: (Reading): "The president presented a letter from Mr. Henry M. Robinson, dated June 18, 1901, re-

ferring to a proposition to sell to this corporation the plant of the above named company, Youngstown Iron, Sheet & Tube Company. Upon motion it was voted that the president be instructed to decline the offer."

By MR. SEVERANCE:

Q. Is that concern still in existence?

A. It is; a very strong and active concern.

Q. It is one of the large competitors of the Steel Corporation, is it not?

MR. DICKINSON: I object to counsel testifying, and asking him if it is that way.

By MR. SEVERANCE:

Q. Is or is it not one of the large competitors of the Steel Corporation?

MR. DICKINSON: You can get the same answer by putting it that way.

MR. SEVERANCE: I want to make you happy, Judge.

MR. DICKINSON: You will get the same answer, but I do not like to appear to be asleep.

THE WITNESS: It is a strong and active concern, and a sharp competitor of some of the subsidiary companies of the United States Steel Corporation.

Q. I call your attention to an entry under date of September 25th, 1901, page 103, under the head of Columbus Iron & Steel Company, offering to sell their plant, and I ask you to read that minute into the record.

MR. COLTON: The same objection.

THE WITNESS: (Reading):

"The President read a letter from Vice-President Battell of the Columbus Iron & Steel Company, offering to sell their plant to us at double their cost, the cost was estimated at \$420,000 and the purchase price would be about \$800,000. On motion, duly seconded, it was voted that the President be requested to decline to entertain the proposition at the present time."

By MR. SEVERANCE:

Q. Do you recall that action being taken?

A. Not distinctly, without that record before me.

Q. You went off the executive committee early in 1902, Mr. Roberts?

A. About April, 1902.

Q. And did you resign at the same time you resigned from the directorate of the Corporation?

A. A short period before I ceased to be a director.

Q. Do you recall that while you were a member of the executive committee the Shelby Steel Tube Company was purchased, the Seamless Tube Company?

A. I do.

Q. Mr. Roberts, as a member of the executive committee did you have anything to do with that transaction?

A. I did.

Q. Why was the plant or the plants acquired by the Steel Corporation?

MR. DICKINSON: That is objected to as irrelevant and incompetent.

A. The National Tube Company had recently purchased the plants of the Standard Pipe Company to enable them to enter into the successful manufacture as they supposed of seamless steel tubes. It was reported to the executive committee that——

MR. DICKINSON: I object to any report.

THE WITNESS: That as a result of information obtained by the executive committee——

By MR. SEVERANCE:

Q. You mean, is that in lieu of your other statement, or is this a continuation?

A. I changed it, in view of Judge Dickinson's objection.

Q. All right, go ahead.

A. As a result of the information obtained the executive committee deemed it advisable to purchase the Shelby Tube Company in view of the patents which the Shelby Company owned, and which at that time there was existing litigation concerning as between the Standard Tube Company and certain individuals and the Shelby Tube Company, the defense of which litigation the National Tube Company had assumed

upon its purchase of the Standard. In connection with these patents which would be secured they would be enabled more successfully to prosecute the manufacture of seamless tubes than they were then in position to do. It came before us in this shape, and I voted on it entirely from the viewpoint of the control of the Shelby patents.

MR. DICKINSON: I object to his statement as to the viewpoint from which he voted on it as incompetent.

By MR. SEVERANCE:

Q. You said some litigation was pending between the Shelby and the Standard and certain individuals?

A. Yes.

Q. Who brought that suit?

A. Shelby. The defense was assumed by the National Tube Company.

Q. Is it or is it not a fact that seamless tubes are still being made by the National Tube Company under the patent so obtained from the Shelby Company, or have they been up to a recent date?

A. The machinery covered by the patents of the Shelby Tube Company has been in successful operation ever since and has displaced the machinery formerly used by the Standard. The Shelby Tube in the meantime has brought suit against outside parties and sustained the validity of those patents.

Q. That is the case against the Delaware Company?

A. Yes.

Q. Mr. Roberts, during the time that you have been connected with the Steel Corporation as a director, or as a member of the finance committee, or as a member of the executive committee, will you state whether in favoring the purchase or acquisition of any properties of any description at any time you have done so for the purpose of procuring a monopoly or eliminating competition or restraining trade?

MR. DICKINSON: That is objected to as irrelevant and incompetent and self-serving.

A. Never with any one of those views in mind, but strict-

ly from the standpoint of their necessity for the operations of the Steel Corporation as originally planned along the lines of conservation or efficiency in shop management.

Q. Mr. Roberts, I cannot seem to lay my hand on the minutes; do you recall that during the time you were a member of the executive committee the question of the construction of steel barges for use on the rivers came up?

A. I do.

Q. Who brought it up?

A. I did.

Q. Will you kindly state the action taken in regard to that?

MR. DICKINSON: That is excepted to as irrelevant and incompetent.

THE WITNESS: I suggested to the executive committee the advisability of entering into the manufacture of steel cars for railways, and also steel barges for use on the rivers around Pittsburgh. As a result of those suggestions the committee decided to engage in the building of steel barges, which has been done since that date by the American Bridge Company. This was an entirely new line of manufacture.

By MR. SEVERANCE:

Q. Has it been prosecuted to a very considerable extent or to a slight extent?

A. To a considerable extent at Ambridge, Pennsylvania.

Q. What plant is there at Ambridge?

A. The plant of the American Bridge Company.

Q. There is one entry that I overlooked here; in the minutes of the same meeting, November 18, 1901, from which the witness has read heretofore. I call attention to an entry on page 115, under the heading "Cornell Works, Cold Spring, New York." Will you read that entry?

A. (Reading): "Mr. Roberts stated that he had received a proposition concerning this plant and he would submit it to the committee in detail if it were of interest. On motion, duly seconded, it was voted that it could not be entertained at this time."

Q. Do you recall that action being taken?

A. I do.

MR. DICKINSON: The same objection.

By MR. SEVERANCE:

Q. Mr. Roberts, I call your attention to page 962, volume III, Government Exhibits, executive committee meeting December 3, 1901, where there is an entry under the head of "American Can Company," and I will ask you if you recall the action being taken that appears upon that minute.

A. I do.

Q. Please read it.

A. (Reading): "The president stated that he had invited Mr. W. T. Graham, president of the American Tin Plate Company, to state to the committee his views upon the matter of concession to the American Can Company already referred to in previous meetings of the committee. Mr. Graham stated that the American Can Company desired to place an order with the American Tin Plate Company for a definite amount of plates to be delivered in the first quarter of 1902, and that the American Can Company now asked some concession in the prevailing price on this order. After some discussion it was finally moved, seconded and voted that the president recommend that Mr. Graham make the price \$3.75 per box on the proposition submitted. The president, Mr. Converse and Mr. Reid voted in the affirmative and the chairman and Mr. Roberts in the negative."

Q. It was carried then by one vote?

A. Carried.

Q. Now, what was the condition of the market at that time, if you recall, and what were the circumstances that occasioned the making of that price, if you know?

MR. COLTON: We object to that as calling for a conclusion.

THE WITNESS: The fact was, not a conclusion, that it was a sale for future delivery on a falling market. My judgment was that the market would not fall to the extent that was anticipated, and I voted no. As a matter of fact, the market did fall, and \$3.75 per box represents about the selling price for the first quarter of 1902.

By MR. SEVERANCE:

Q. Do you remember now about how much the market de-

clined? It speaks of the prevailing price, which was December, 1901.

A. I think in the neighborhood of 25 cents a box.

Q. Mr. Roberts, since you have been a director of the Pennsylvania Railroad have you ever occupied any position in the committees of that road?

A. I have.

Q. What is it?

A. I have been a member of the road committee, and chairman and member of the supplies committee.

Q. As chairman of the supplies committee have you ever at any time taken any part in fixing the price of any commodities to be purchased from the United States Steel Corporation since you have been a director of that company?

A. I never have.

Q. Have you, either as director of the Steel Corporation or as a director of the Pennsylvania Railroad, during the time you have been a director of both corporations, taken any action or attempted in any way to influence the action of either company in connection with dealings they might have with each other?

A. I never have, and any such action is distinctly prohibited by the by-laws of both corporations.

MR. COLTON: I object to that on the ground that the by-laws are the best evidence.

THE WITNESS: (Continuing) Those of the Pennsylvania Railroad have provided for the duties of directors in this respect since 1847, and those of the Steel Corporation since the date of its incorporation.

Q. Have you at any time used your relation to the two companies to secure for either any advantage or concession from the other?

A. Never.

Q. Have you ever been asked to do so by any person?

A. Never.

Q. Have you ever acted or taken part in any discussion of rail, bridge or other steel prices in the Pennsylvania direc-

torate since you have been a member of the Steel Corporation directorate?

A. So far as they may relate to the Steel Corporation or to others?

Q. Anything they manufactured that would determine their prices?

A. I have never taken any action and in fact it is expressly forbidden that a director shall have a vote on any matter common to two companies of which he may be a common director. The minutes in all instances will show——

MR. COLTON: I object to his stating what the minutes will show, and what is prohibited, on the ground that the documents themselves are the best evidence.

By MR. SEVERANCE:

Q. Go ahead. What were you going to say?

A. That I am recorded if present as not voting.

Q. Have you ever taken any part or been present at any meeting of the directorate of the Steel Corporation at which sales to the Pennsylvania Railroad or the prices of the same were under discussion or voted upon?

A. I never have.

Q. I intend to confine my question to the time that you were a director of the Pennsylvania Railroad.

A. Common to both.

Q. Yes; you spoke of coming over once when you were on the Pennsylvania Board with the president of the Pennsylvania Railroad, to see Mr. Gary.

A. The term interlocking director is entirely a misleading one.

MR. COLTON: I object to that. There is no question.

By MR. SEVERANCE:

Q. You were about to make some explanation, Mr. Roberts. You may make it.

A. It is not a new feature of corporate life at all. There have always been directors common to more than one company, and the ethics of corporations as indeed the ethics of law provide for the conduct of directors who may be common to more than one company. It might be with equal propriety

applied to a lawyer who has more than one client, but the ethics of the law provide that in case of differences between two clients common to one lawyer that the lawyer takes no action in reference to either side. It is the same with corporations and their directors; in such cases they step to one side and do not participate.

MR. COLTON: I object to the answer as argumentative and speculative.

By MR. SEVERANCE:

Q. Do you know of any other gentlemen who have been directors of both the Steel Corporation and the Pennsylvania Railroad during your incumbency of these dual positions?

A. Mr. Henry C. Frick has been a director during the time I have been a director. Mr. Clement A. Griscom was also a director during his lifetime both of the Steel Corporation and the Pennsylvania Railroad.

Q. Upon the death of Mr. Griscom who was chosen to succeed him?

A. It was one of the vice-presidents. I cannot tell which one, of the Pennsylvania.

Q. It was not a director of the Steel Corporation?

A. No.

Q. At the present time, then the only directors common to the Pennsylvania Railroad and the Steel Corporation are Mr. Frick and yourself?

A. That is all. I would say that I was not a director of the Steel Corporation when I became director of the Pennsylvania Railroad.

Q. I understand that.

A. Nor was I a director of the Pennsylvania when I originally became a director of the Steel Corporation.

Q. It is only since 1909, I think you have already testified, that you have been a director of both?

A. Yes.

Q. During that time that you served on these respective boards with Mr. Griscom before his death or with Mr. Frick, did you ever know or hear of either of them acting or voting in any matter as between the two companies?

A. Never.

Q. Were you familiar generally with the character of the business done by the Carnegie Steel Company and the Illinois Steel Company respectively, immediately previous to the organization of the United States Steel Corporation?

A. I was.

Q. In general, if you know, about what was the character of the steel manufactured by the Illinois Steel Company as between open-hearth and Bessemer?

MR. COLTON: That is objected to on the ground that it is a matter of record, and that the record should be put in instead of the general statement of the witness.

By MR. SEVERANCE:

Q. You may answer.

A. About the year 1900 the Carnegie Steel Company had integrated largely along the lines——

Q. I do not know that you understood the question. I will ask that it be read.

(By request, the stenographer repeated the question, as follows:)

“Q. In general, if you know, about what was the character of the steel manufactured by the Illinois Steel Company as between open-hearth and Bessemer?”

THE WITNESS: That is what I am going to say.

By MR. SEVERANCE:

Q. You are going to answer that?

A. Yes.

Q. Very good.

A. The Carnegie Steel Company had integrated largely along the lines of basic open-hearth steel, whereas the Illinois Steel Company was principally a manufacturer of Bessemer steel. As of that year the output of the Illinois Steel Company in basic open-hearth steel was about 80,000 tons, whereas the output of the Carnegie Steel Company was 1,250,000 tons.

Q. For what purposes, if any, is open-hearth steel used for which Bessemer is not used, or was not at that time?

MR. COLTON: You are asking as of that time?

MR. SEVERANCE: That is what I said.

MR. COLTON: You made it alternate.

MR. SEVERANCE: I meant as of that time.

THE WITNESS: Bessemer Steel can be substituted by open-hearth steel.

By MR. SEVERANCE:

Q. Did you say by or for?

THE WITNESS: By open-hearth steel. Open-hearth steel cannot be substituted by Bessemer steel. In other words, you can supply any or all specifications with open-hearth steel, but you can supply specifications only to a very limited extent with Bessemer steel. For instance, all structural material is specified to be open-hearth steel; therefore, beyond their 80,000 tons of output the Illinois Steel Company was unable to compete with this basic open-hearth steel output of the Carnegie Steel Company. The open-hearth output of the Illinois Steel Company was used practically entirely in sheared plates, whereas the output of the Carnegie Company went into very varied lines of product, many of which the Illinois Steel Company did not make at all. For instance, universal mill plates, structural shapes of all kinds, spring steel, and so forth. The competition existing at that time between these concerns was confined to their Bessemer output, which largely or almost exclusively went into steel rails and some billets, for purposes such as wire, sheets, and so forth.

Q. Where did the Carnegie Company sell the bulk of its billets?

A. In the Pittsburgh district.

Q. Where did the Illinois Steel Company sell the bulk of its billets, so far as it had any to sell?

A. The Chicago district.

Q. Did either the Carnegie or the Illinois consume any of their own billets?

A. Oh, yes.

Q. The larger or smaller part?

A. All sizes, depending upon the quality of the finished material.

Q. Larger or smaller percentage, I meant.

A. The larger percentage. As I stated this morning, the sale of billets has always been more or less the sale of surplus product. Whenever steel manufacturing concerns had sufficient orders for finished material to consume the output of their steel-making furnaces or converters they advanced it to the most finished form that it was possible for them to put it in, as it was to their advantage to do so from a money standpoint. At other times, when their demand was not sufficient for finished material, they disposed of their steel in its semi-finished form.

Q. Where did the Carnegie Steel Company sell the bulk of its rails?

A. South, southeast, east, and in the territory adjacent to Pittsburgh.

Q. Where did the Illinois Steel Company sell its rails?

A. The middle west, south and northwest, and in proportion as they supplied the wants of their adjacent territory, they naturally came into competition with each other in their surplus product of their rails which they could not market in their territory which naturally belonged to them.

Q. Was that a large or small percentage of their total output of rails?

A. A comparatively small percentage.

(Whereupon an adjournment was taken until to-morrow, Thursday, June 5, 1913, at 10:30 o'clock a. m.)

SEVENTIETH DAY.

EMPIRE BUILDING,
71 BROADWAY, NEW YORK CITY,

JUNE 5, 1913.

Before SPECIAL EXAMINER JOHN ARTHUR BROWN.

Present on behalf of the United States, MR. DICKINSON
and MR. COLTON.

Present on behalf of the defendants, MR. SEVERANCE, MR.
BOLLING and MR. REED.

PERCIVAL ROBERTS, JR.,

the witness under examination at the taking of adjournment,
resumed the stand for further

DIRECT EXAMINATION (Continued),

By MR. SEVERANCE:

Q. You testified yesterday, when being interrogated relative to the production of the Carnegie and the Illinois Steel Companies in 1900, that the output of the Illinois Steel in basic open-hearth steel was about 80,000 tons, whereas the output of the Carnegie Steel was 1,250,000 tons. Do you desire to correct that statement in any particular?

A. Yes; I had in mind the output of sheared steel plates.

Q. At which place?

A. At the Illinois Steel Company. Their tonnage of open-hearth steel ingots in 1900 was about 190,000 tons instead of 80,000 tons, making the excess of the Carnegie Steel something over a million tons.

Q. You were not a member of the board of directors of the United States Steel Corporation at the time the so-called Hill lease was negotiated, were you?

A. I was not.

Q. Were you a member at the time the same was surrendered?

A. I was a member of the finance committee at that time, and also a director.

Q. Will you state the reasons which actuated the Steel Corporation in surrendering the Hill lease?

MR. DICKINSON: That is objected to as irrelevant and incompetent and self-serving.

THE WITNESS: The controlling reasons were two, one was commercial, that the ore had not developed entirely of the quality that had been expected; the other was the criticism of the Government as to the amount of the Steel Corporation's ore holdings. The majority of the committee for those two reasons deemed it wise to exercise their option which they had in the lease for cancellation in 1915. I personally did not coincide with those views entirely, as, notwithstanding the criticism of the Government I believed that our ore reserves were none too large for the satisfactory operation of our plants. I, however, deferred to the opinions of the majority and voted in favor of cancelling the lease.

Q. Mr. Roberts, from your knowledge of the Steel Corporation and its competitors, what do you say as to the power of the Corporation, either at this time or at the time this suit was brought, in October, 1911, to crush and drive out of business business competitors.

A. It is a physical impossibility for it to do so, even if it had that desire. The nature of the steel business is such that should a trade war be inaugurated at this time or any time in the recent past, destruction would occur to either party, both would be practically crippled, the larger concern suffering just in the same proportion as the smaller concern, relatively suffering to the same extent, due to its larger production and greater losses which it would sustain in the reduction of its prices to an unremunerative point. It is an absolute impossibility to successfully destroy its well-equipped rivals.

Q. Has the Steel Corporation to your knowledge ever attempted to crush a competitor, either a large or small competitor, or attempted to secure customers of other concerns by secret discounts or other unfair means, or attempted to secure the business in particular localities by unfair means?

MR. DICKINSON: That is objected to because it does not show what means are indicated; it is just an opinion of the witness which is called for, which involves a judgment on facts undisclosed.

Q. You may answer.

A. It never has in any manner, shape or form. It has at all times sought a natural and healthy competition.

Q. Has the Steel Corporation to your knowledge at any time sought to drive any competitor out of business by making low prices in one locality as compared with the ordinary current prices over the country?

A. It never has. Basing prices for all materials have been Pittsburgh plus freight to destination. There may be at this time, at the immediate present, some prices based on Chicago plus freight, but it has been the universal practice in the steel trade, not only with the United States Steel Corporation but with others, to use Pittsburgh as the base point for all quotations.

Q. Did that practice of using Pittsburgh as a basing point originate before or after the organization of the United States Steel Corporation?

A. Many years before.

Q. What has been the policy of the Corporation to its consumers as to stability, impartiality and reasonableness of prices?

A. It has at all times sought to maintain reasonable prices and to reach directly the consumer without the assistance of the middleman or broker. Prior to the formation of the Steel Corporation the steel trade was largely in the hands of brokers who took the specification of the consumer and handled the same on a commission basis. One of the earliest plans of the Corporation was to eliminate this percentage basis and seek the consumer directly by the establishment of warehouses and carrying stocks, all in accordance with this idea of a large department store which I referred to yesterday. For instance, a consumer having a varied specification in the old days would have to deal with a number of different concerns making certain specialties. With the formation of the

Steel Corporation and their diversified lines of products he was enabled to obtain quotations from one party on the entire bill. The Steel Corporation has sought as far as possible to maintain prices within reasonable limits without the wide fluctuations which formerly took place and which neither the consumer sought and in many cases was forced upon the producer by concerns who were at times in such stress as to be forced to dispose of their products much below the prevailing market prices to enable them to obtain necessary funds to meet their requirements. As a matter of fact, as a result of these violent depressions from one cause or another the pendulum of price swung to the other extreme, and those who weathered the storm of depression necessarily to recoup raised their prices just in proportion as they had been too low before, to too high a point afterwards; the consumer suffered in this and they have since the inauguration of a more stable market been enabled to conduct their business with less money invested in stocks and material, feeling more assured of a stable market than they had been in the past. Another benefit to the consumer——

MR. DICKINSON: May I hear the question read?

(The stenographer repeated the question as follows:)

“Q. What has been the policy of the Corporation to its consumers as to stability, impartiality and reasonableness of prices?”

MR. DICKINSON: All of the foregoing answer that is not responsive to the question is objected to on the ground as filling the record with unnecessary and immaterial matter not called for by the question.

MR. SEVERANCE: I will state that I know of nothing in the answer that is not directly responsive.

MR. DICKINSON: I differ with you about that, so I put my exception in.

MR. SEVERANCE: I will accept it as responsive to my question.

MR. DICKINSON: The point I am making is, I object to the filling of the record with things that are not called out by counsel's questions. It is making the record unnecessarily long

and unnecessarily consuming the time of counsel on both sides, and I object.

MR. SEVERANCE: I am very sorry to consume your time, but I am convinced of the fact that the answer is directly responsive and material.

By MR. SEVERANCE:

Q. Proceed with the answer, Mr. Roberts.

A. Another benefit to the consumer has been in enabling the consumer to procure a uniform quality of material which has been brought about by the operations of the United States Steel Corporation, in the manner I described yesterday, by consultation with experts and their ability to adapt and use new processes and improvements which from time to time are made.

MR. DICKINSON: I object to the witness repeating what he said yesterday.

Q. What has been the policy of the Steel Corporation as to exacting premiums for prompt delivery in boom times or otherwise?

MR. DICKINSON: I except to that as incompetent and irrelevant.

By MR. SEVERANCE:

Q. You may answer.

A. It has never been its policy, nor do I think it has been generally the policy in the trade; I mean with the larger concerns of the trade. There have been some smaller concerns which run to a greater or less extent, depending on the conditions of the market, and in good times they operate with very little tonnage on their books and take advantage of such cases. I do not think, however, that the larger concerns, any of them, follow that practice.

Q. What has been the effect of the Corporation upon the quality of the steel product put out by its subsidiaries?

MR. DICKINSON: That is objected to as irrelevant.

A. My answer to that would be the same as to your previous question. It has undoubtedly tended to improve quality.

It takes advantage promptly of all improvements and developments in processes of manufacture in articles which it produces.

By MR. SEVERANCE:

Q. What advantage, if any, is there in the common ownership of plants scattered in different parts of the country?

A. Conservation, largely, economy in transportation and proximity to the point of consumption.

Q. Is there any advantage to the consumer in having points of production near to the points of consumption?

A. Yes; prompt delivery, close contact with the source of supplies.

Q. What do you say, as a result of such study as you have made of the prices of steel products since the formation of the United States Steel Corporation as to whether they have advanced or decreased?

MR. DICKINSON: That is objected to because it is not shown what study he has made, and his opinion is based upon a hypothesis as to facts which have not been shown.

By MR. SEVERANCE:

Q. You may answer.

A. The tendency has been downward; not a regular and constant downward movement; there have been temporary fluctuations controlled by the law of supply and demand, but the entire cycle since 1900 to the present day has been a downward movement with an increase in wages during the same period.

Q. Take the case of your old plant, of which you were formerly the president, the Pencoyd plant. How do the prices of plates, girders and material compare with what they were in 1900 at that plant?

MR. DICKINSON: At what time do you mean now, and what time in 1900?

MR. SEVERANCE: I will say to compare 1900 with October, 1911, or the year 1911 and the present year.

MR. DICKINSON: And then do you mean the whole of 1900? Do you mean a corresponding period, October, 1900, with October, 1911?

MR. SEVERANCE: I do not fix any particular time in the year, but I am only asking in a general way.

MR. DICKINSON: I know, but I will ask him in particular, and I would like to fix the time as to which you are getting comparisons.

MR. SEVERANCE: I will say the year 1900 and the year 1911. About what percentage of increase or decrease was there between those periods?

MR. DICKINSON: On what, now?

MR. SEVERANCE: Between 1900 and 1911.

MR. DICKINSON: On what articles?

MR. SEVERANCE: On plate girders and similar material, at Pencoyd.

MR. DICKINSON: Now you are only asking as to Pencoyd?

MR. SEVERANCE: Yes, that is all; I am asking about his old plant.

THE WITNESS: Wages——

By MR. SEVERANCE:

Q. I have not asked about wages. I asked about the price of plate.

A. Prices of plate girders?

Q. Yes.

A. The prices of plate girders in 1911 were about thirty per cent. below what they were in 1900.

Q. How were wages at Pencoyd in 1911 as compared with what they were in 1900?

A. About thirty-five per cent. higher.

MR. SEVERANCE: I want to ask a few questions relative to some testimony given by a witness for the Government, Mr. Francis Walker. Certain tables were introduced in connection with his testimony, and I will show the witness those documents, diagrams and tables.

Mr. Colton, you may turn to pages 1623 and 1653 of the exhibits, Volume V. Part I. Page 1623 is a table of prices of steel beams, and 1653 is a diagram upon which he traces the movement of the prices of steel beams and other commodities, to wit, black sheets, tank plates and steel bars.

MR. COLTON: The prices being at Pittsburgh, base prices?

MR. SEVERANCE: That is right.

By MR. SEVERANCE:

Q. You will notice that on that exhibit, page 1653, Walker Exhibit 246, there appear lines showing the movement, as Mr. Walker thinks it was, of black sheets, tank plates, steel bars and beams. From your knowledge of the business, would you say that those items are comparable items of production from the comparative movement of which any deduction can be drawn as to whether the prices of one or the other are controlled by artificial means?

MR. DICKINSON: I object to the question as vague, indefinite, and calling for a conclusion and not facts.

MR. SEVERANCE: Your witness Mr. Walker, who never was in a steel mill in his life, testified on that subject.

MR. COLTON: You do not mean that.

MR. SEVERANCE: Yes, I do. Go on and answer the question, Mr. Roberts.

MR. DICKINSON: I object to counsel stating what Mr. Walker testified, in examining his witness. I do not remember of his reading anything that Mr. Walker said.

MR. SEVERANCE: I am going to read something pretty soon.

MR. DICKINSON: I do not think that is proper on the examination of the witness, but I am perfectly willing for him to do that.

MR. SEVERANCE: I will do it pretty soon. Just answer the question.

THE WITNESS: Are you ready for me to go ahead?

MR. SEVERANCE: They are just discussing to see if there are any more objections.

MR. DICKINSON: We are doing that very thing. There is further objection made on the ground that counsel states that this table shows what Mr. Walker thinks, whereas the testimony shows that it is based upon prices taken from trade papers.

MR. SEVERANCE: And he said where there was more than one price he picked the one he thought was better, so that my statement is quite correct. You may answer the question.

That is what he said. Answer the question if you understand it; if not, it will be read to you.

MR. DICKINSON: One moment; I object to counsel stating and summarizing what Mr. Walker said, as in our judgment that is not a correct statement, and I think it is improper for him to be informing the witness that way when he is under examination.

MR. SEVERANCE: I am merely doing that because counsel made a statement as to what Mr. Walker had said in his statement.

MR. COLTON: No, I did not; you made the statement.

MR. SEVERANCE: I did not.

MR. COLTON: The record will show.

MR. SEVERANCE: Proceed; we will not have any trouble. Just keep quiet and we will get along all right.

THE WITNESS: Exhibit 246 of Volume V, Part 1 of Government Exhibits, displays graphically four tables of prices, Nos. 8, 9, 10 and 11, covered by pages 1623, 1624, 1625 and 1626 of the same volume. Those four tables purport to be the weekly quotations of the Iron Age.

MR. DICKINSON: Excuse me; will you read the question to the witness?

MR. SEVERANCE: I do not think that is quite proper, Judge Dickinson, for you to continually interrupt in this way when he is answering the question, and ask to have it read. If the witness does not understand the question he can easily ask to have it read.

MR. DICKINSON: If his answer is not responsive to the question we have a right to have the question put again.

MR. SEVERANCE: You cannot tell whether the answer is responsive or not; he is beginning his answer, and he has a right to go on and make it.

MR. DICKINSON: I would like to have it read for my own information. Counsel cannot object to that.

MR. SEVERANCE: Judge Dickinson having made objection to it, not knowing what it is, it may be read.

(Here the stenographer repeated the pending question, as follows:)

“Q. You will notice that on that exhibit, page 1653, Walker

Exhibit 246, there appear lines showing the movement, as Mr. Walker thinks it was, of black sheet, tank plates, steel bars and beams. From your knowledge of the business would you say that those items are comparable items of production from the comparative movement of which any deduction can be drawn as to whether the prices of one or the other are controlled by artificial means?"

MR. DICKINSON: I object to what the witness has said as filling the record with matter which is not responsive to the question addressed to him by counsel.

MR. SEVERANCE: I think it is responsive.

THE WITNESS: To the question I answer no, for the following reasons:

MR. DICKINSON: If counsel assumes the responsibility, that is another matter.

MR. SEVERANCE: I will take it.

MR. DICKINSON: Of course we do not waive the objection.

MR. SEVERANCE: I do not mind that. Go ahead, Mr. Roberts.

THE WITNESS: To the question I answer no.

Q. Will you give your reasons for that answer?

A. My reasons are as follows: Each of the lines in question, for each of the products whose quotations are given in tables 8, 9, 10 and 11, of which the table on page 1653 is simply a pictorial reproduction of the facts contained in those four tables, are in no wise comparable. The products are totally different, have a different market, and bear no relation whatever one to the other. The four lines in question are put on this table as a matter of convenience.

MR. DICKINSON: We object to that statement, witness not showing sufficient knowledge to make such a statement.

MR. SEVERANCE: What is that?

MR. DICKINSON: We object to that statement, the witness not showing sufficient knowledge to justify a statement of that character.

THE WITNESS: They give no additional information by being placed upon this one table than they would if placed upon four different ones.

MR. SEVERANCE: Judge Dickinson suggested he would have

no objection to my reading the testimony of Mr. Walker. Therefore I will read his testimony.

MR. DICKINSON: No; I said I thought it was improper, and I say now I think it is improper examination, but if you are going to state what Mr. Walker said, if you are going to pursue that method, I thought you ought to read it, is what I said; but of course I will object to it.

MR. SEVERANCE: Oh, you are going to object?

MR. DICKINSON: Certainly.

By MR. SEVERANCE:

Q. I will call your attention to the testimony given by Mr. Walker on this subject, so you will understand clearly what I am interrogating you about.

MR. SEVERANCE: Look at page 2633, Judge.

MR. DICKINSON: Objected to as improper examination.

MR. SEVERANCE: Mr. Walker, the witness on the part of the Government, who testified with reference to these tables, being under examination by Judge Dickinson, the following appeared:

MR. DICKINSON: Where are you reading from now?

MR. SEVERANCE: Page 2633.

By MR. SEVERANCE:

Q. (Reading):

“Q. Please refer to Diagram No. 4, Government Exhibit No. 246, and explain the curve for beams, and what it indicates as to fluctuation of prices and artificial conditions.”

Objection being made, Mr. Dickinson said:

“Strike out ‘artificial conditions,’ then and substitute ‘as to competitive conditions.’

“A. Taking first the prices before the organization of the Steel Corporation, for the period indicated on the diagram, we find that the price of beams runs frequently for a number of months at a time without any fluctuation in price, while other products which were subject to competitive conditions fluctuated almost constantly from month to month.

“Q. From your knowledge derived as an economist, and by a study of prices, and your knowledge of iron ore, state

whether or not, when there are free competitive conditions the market is characterized by fluctuations and changes in prices from time to time.

“A. Where the market conditions are really competitive, the prices of iron and steel products, of the kinds here under consideration, naturally tend to fluctuate from month to month and from time to time, and do not tend to run at uniform prices for a long period of months together.

“Q. Where you have over a period of months continuously a constant price, what does that indicate to your judgment as an economist as to artificial control of prices?

“A. For iron and steel products here under consideration, that indicates quite positively that such prices are controlled by artificial conditions, and not by competitive conditions.

“Q. Now, proceed, if you had not finished with your answer in regard to diagram No. 4, in regard to beams.

“A. Taking certain illustrations of the price movement of beams for the period 1895 to 1900, we find, for example, that from June, 1896, to April, 1897, with a very brief exception at the end of 1896, the prices were maintained at about \$1.55 per hundredweight.

“During these same months the price of tank plates, which in its commercial relations and also in relation to the conditions of production, cost, and so forth, is a nearly related product—the price of tank plates, which fluctuated from month to month during this period, fell rapidly from about \$1.28 per hundredweight to about \$1.08 per hundredweight. The margin between the two thus rapidly increased, the one, the commodity whose prices were controlled by competitive conditions, declining, while the commodity whose prices were controlled by artificial conditions remaining at a nearly constant level, and at a relatively much higher price than it would have been compared with plates if both of them had been controlled by competitive conditions.”

Now, having your attention called to the tables and the deductions so drawn by Mr. Walker, I will ask you whether or not plates are a very similar product, so far as price goes, and where the two products, namely beams and plates, are

sold under competitive conditions the price level is generally about the same. What is the fact as to that from your knowledge of the business?

MR. DICKINSON: Objected to on the ground that it is not shown that the witness through that period had anything to do with the manufacture of plates or the sale of plates, and that he has not shown any knowledge in regard to pools or the operation and effects of pools.

THE WITNESS: Plates and beams are entirely dissimilar products, used for entirely dissimilar purposes, are not governed by the same costs of production and are largely not made by the same manufacturers or produced by similar machinery.

By MR. SEVERANCE:

Q. Was that the case previous to 1900?

A. It was, and since 1900. Following the lines indicated on the diagram in question, Exhibit No. 246, the statements which you read from Mr. Walker's testimony are not shown to be accurate, if you follow the lines for beams and plates on this diagram. In a number of cases, for instance, in 1895, the price of plates was rising rapidly and reached about 1.85 cents per pound in the month of September, while the price of beams remained stationary during this period at a price of 1.6 cents per pound. Again in the year 1899 the price of plates in the month of September reached 2.85 cents per pound, while the price of beams remained stationary at 2.25 cents per pound. Nowhere on the diagram in question between the years 1895 and 1911, does any similarity between these two price lines which would indicate any exact relations appear, whether during times of the operation of pools or otherwise.

Q. Mr. Roberts, does or does not the fact that the quoted price in the trade papers of a steel commodity such as beams continue at a level for a period of months indicate anything as to whether or not the price of the same is controlled or artificial?

MR. DICKINSON: That is objected to on the ground that it has not been shown that his business and experience qualifies

him to speak, nor has it been shown that he was in any pool except the beam pool, or that he has knowledge of the existence or effect or operation of other pools, or the periods during which they operated.

MR. SEVERANCE: How many pools was Mr. Walker ever in?

MR. COLTON: He studied pools.

By MR. SEVERANCE:

Q. Go on and answer the question.

A. The market prices as obtained from trade publications are theoretical, and do not represent in detail actual selling prices. They, as is the case with other daily news, are the result of information gleaned on the street and otherwise, and represent the best judgment and opinion of those who collect it, and express their own individual views at times, and sometimes based on some one transaction or more transactions from week to week. In considering these market prices it is necessary to consider the nature of the product sold, the variety of the product, the frequency of the sales, whether large or small, numerous or few; and therefore you can not compare the market prices of one line of products and their extension at uniform prices over a period of time with those of dissimilar products. For instance, bars are of a multitude of different sizes and weights, varying possibly from a ton to a few pounds per bar. The number of the sales is very great, in very varying quantities. A man seeking information for a market report would daily obtain a great number of such quotations, and it would tend to produce in his reports a more fluctuating tendency over a period of time in giving the market prices than in the case of the sale, for instance, of beams where the manufacturers were few in number. For instance, as of about the year 1900 over seventy-five per cent. of the structural material in the United States was produced by three concerns. The nature of the sales of this material was such that there was not nearly the frequency that there was in the case of bars. In making the market price, some one individual building in a certain city, or an individual bridge at a certain destination would establish what would be known as a market price extending over a considerable

period of time until, possibly, another structure of the same kind might be reported at different figures.

MR. DICKINSON: Will you let me interrupt you for just a moment, Mr. Roberts?

THE WITNESS: Certainly.

MR. SEVERANCE: I would prefer that you should not interrupt all the time, Judge.

MR. DICKINSON: I asked permission to do it, and I have a good reason for doing it. If you insist I shall not; that is another matter. I just want to get the question in my mind.

MR. SEVERANCE: Why not write down the questions?

MR. DICKINSON: I can remember some of them, but this one is interminably long.

MR. SEVERANCE: Just read the question.

(The stenographer repeated the pending question.)

MR. SEVERANCE: Now, will you read Mr. Roberts' answer to him, so that he will know where he had arrived at the time he was interrupted?

(The stenographer repeated the answer given by the witness.)

By MR. SEVERANCE:

Q. Have you something further to add, Mr. Roberts? You were proceeding with your answer at the time you were interrupted.

A. Giving a concrete example of an instance of which I have personal knowledge: In the year 1896, in November, the market price for beams, as represented on the table No. 8 is 1.53 cents per pound, Pittsburgh; Pittsburgh is the basing price. That means 1.53 plus a fraction of a cent for New York delivery. As of November 5 of that year, I think, which was the day after Mr. McKinley's election to the Presidency, I made a price for beams delivered in New York for the Sherry building of one cent a pound.

MR. DICKINSON: That is objected to as giving a single instance, when his opinion is called for upon general conditions.

THE WITNESS: I have not finished yet.

MR. SEVERANCE: I would suggest that you wait until he finishes his answer and then make the objection.

MR. DICKINSON: I have a right to object now.

MR. SEVERANCE: I do not think you have, and I want to enter upon the record an objection to the evident intent of counsel to throw the witness off the track, in giving an answer, by these constant interruptions.

MR. DICKINSON: I disclaim any such intent; I have shown no such disposition and have no such disposition, but I do claim the right, when the witness is asked a question on a general proposition and gives a particular instance, to object to that at the time, and I do not feel that I am bound to sit here and let him go on and wander away from the question without objection. That is for the Court to determine, and not for opposite counsel. We will submit the matter to the Court.

MR. SEVERANCE: I wish to state that the witness's answer is directly responsive, and is accepted as such. Proceed, Mr. Roberts.

MR. DICKINSON: I have not seen one yet that has not been accepted as such.

MR. SEVERANCE: You may proceed, Mr. Roberts. Never mind how cross the Judge is. Go on.

THE WITNESS: (Continuing) The price of one cent a pound was met by other manufacturers, and was the price of beams for some months afterwards, although it was not reflected in the market reports of the Iron Age until July of the following year, 1897.

Again, I want to call attention to the fact that a straight line on the diagram indicates nothing in regard to a controlled market, for the reason that the beam pool was established January 1, 1897, and operated from that period, during which time there was a controlled but fluctuating market.

By MR. SEVERANCE:

Q. During the operation of a pool such as the beam pool, how is it that prices fluctuate?

A. They fluctuate in accordance with supply and demand, always within reasonable limits, and that was the controlling factor of the beam pool, of which I can speak personally. Its object and purpose were to keep prices within reasonable

limits and to prevent destructive competition. That was its purpose and its object.

Q. Were those prices maintained at a uniform figure for long periods of time, or did they fluctuate during the existence of the pool?

A. They fluctuated during the existence of the pool as shown on these charts. The matter of control in no sense of the word means uniformity.

Q. That is what I wanted to get at.

A. But it was a control within reasonable limits, as distinguished from destructive limits.

Q. Was there anything to hinder the members of the pool changing the prices from month to month?

A. There was not, and it was frequently the custom to do so, nor was it in the structural pool impossible to vary prices as between each manufacturer. The controlling factor in that pool was the percentages of output, or the percentages of orders, percentages of the business of the country allotted to each member. Within that allotment he was expected to retain all his profits. In what he manufactured beyond that allotment he shared his profit with others, but there was nothing to prevent each individual member of that agreement to sell below the market price if he saw fit, his own individual product.

Q. Is there anything in the fact that the market price continues on a level; that is, with no apparent change; (by "market price" I mean the price quoted in the trade journals for the period of a year or several months), indicating that that uniform level is produced by an association or pool or some other artificial arrangement?

A. None whatever. It may be the absence of any important or distinguishing contract which would suggest a change in market values. For instance, a large building like the Woolworth building might establish a market price which would stand as the market price for some months, until another large building might be taken at a different figure. It does not indicate anything excepting that the reporter gathering the news has not found anything to make him

change his views as to what the market price should be. It may be the absence of business.

Q. Is it or is it not a fact that during the period of the beam pool, when you were connected with it, prices were maintained at a level by the members of the pool?

A. No, prices varied as between the various manufacturers; not to a great extent, but there were variations, individual variations during that time. The fixed and controlling factor, as I said, was the allotment of percentages of output.

Q. Mr. Roberts, Mr. Walker testified that he made up these various documents covering the period from 1895 to 1910, instead of from the ten year period, before the organization of the Corporation, and at page 2613 of the record gave the following reason, speaking of 1895:

"I decided that the year 1895 was a fair point to begin in order to compare, for example, the movement of prices for a period of years during the organization of the Steel Corporation with a period of years before its organization. I decided on that particular year for the beginning of the tables for several reasons. In the first place, there had been during the 90's, the last decade of the last century, a very marked technical development which had greatly reduced the cost of manufacture. This marked technical development made itself particularly felt in the latter part of that decade, and only to a comparatively slight extent in the earlier part of that decade. Of course it is evident, and it is a fact, that with such a development costs tended to be lower, and prices under normal conditions of business would tend likewise to be lower. I considered that 1895 was a fair point on that ground."

What marked technical development was there tending to a greatly reduced cost of manufacture during the last half of the decade ending in 1900?

A. In that ten year period there was no technical development whatever other than improvements in details, refinements in processes, and a growing demand which at times towards the end of the period exceeded the supply. It was a period in which during the early part of the decade due to the improvements which I have spoken of yesterday as

having taken place in 1890, the output of the country was very materially increased and exceeded the demand. The reverse occurred at or about the termination of that ten year period; as of about the year 1895, from which Mr. Walker dates his diagram the only change which occurred was the introduction of the Mesabi ore, which at that period could be used to only a very limited extent in a blast furnace, and which until about 1900 could not be considered in anything like the same light as since that date. The first four or five years of its introduction it was used, as I say, to a very limited extent, was sold at a comparatively low figure, and just in proportion as blast furnace experts realized how to use it the price gradually increased until it stood at what it does today, but during that five years it was going through an experimental period and there were no marked developments as I have said whatever in the ten year period from 1890 to 1900. There were prior to that.

Q. Mr. Roberts, was there any more marked technical development during the years from 1895 to 1900 than during the years from 1890 to 1895?

A. There were not.

Q. You testified yesterday to certain things when you said—I think your expression was “revolution,” or something to that effect, in the steel business, when you mentioned the Jones mixer and electrical appliances, and so forth. Were those before or after the year 1890?

A. All prior to the year 1890.

Q. What other things have since come in that you would regard or could be properly called a marked technical development. I am bringing it clear down to the present time?

A. The introduction of the electrical furnace for the manufacture of steel, which is still in its infancy, and from which there has practically as yet been no output except for experimental purposes. That is the only one of importance since the introduction of electrically driven machinery.

Q. When was that developed, so far as it has been developed, during that period?

A. Prior to 1890.

Q. No, I mean the electrical.

A. The electrical steel?

Q. Yes.

A. It has been a gradual development extending probably for the last seven or eight years.

Q. Mr. Roberts, does or does not Bessemer pig iron enter into the manufacture of open hearth steel?

A. It can, but it does not.

Q. As a practical matter it does not?

A. No, it does not.

Q. What do you say as to whether the six years beginning with 1895 were years of great prosperity in the iron and steel industry, 1895 to 1900, inclusive?

A. The earlier years of that period showed an increasing consumption in the country, but the increase in production had outstripped it and prices in consequence were very low. In 1897 and 1898 there was a period of destructive competition, but towards the close of the period consumption had overtaken production and good prices prevailed. Very low prices, probably the lowest which we had ever had up to that time, occurred during the first part of that period.

Q. How were prices in 1897 and 1898 as compared with any other years in the history of the industry, so far as you know it?

A. In certain lines such as rails they were lower than they had ever been before, and much below the cost of manufacture.

Q. How were they in other lines beside rails?

A. In 1896 and 1897 the price of beams was below cost and lower than ever before in their history.

Q. I read you a statement made by Mr. Walker at page 2616:

“The years 1897 and 1898 were very good years in the iron and steel business, from the point of view of output. The production was larger in those two years than in any previous years in respect to iron and steel. The prices, it is true, were low. These low prices resulted, however, from the technical improvements which occurred during this time, which I have already referred to, and to the lower cost ores which were then available in a large degree.”

What in your opinion was the occasion of the low prices at that time?

MR. DICKINSON: Objected to because it is not shown that the witness at that time had had experience in the production or sale of the variety of articles with respect to which his opinion is called for so as to qualify him to give an opinion.

THE WITNESS: I was in 1897 and 1898 a seller of beams and structural material, and during those years they reached a point below the cost of manufacture, and lower than they had ever before or since been sold at.

By MR. SEVERANCE:

Q. What was the cause?

A. It was largely one of destructive competition, brought about by the attempt of the Carnegie Steel Company to run their plant full at a time when the consumption did not amount to the production of the country.

Q. Did these low prices result from any technical improvements occurring at that time?

A. They did not, and they were below cost.

Q. What was the general condition of business in all lines in 1899 and 1900?

A. Active, and at good prices.

Q. Was that local to the United States, or was it world-wide?

A. It was world-wide. It was after the conclusion of the Spanish war, and everything in all lines of trade was active during those years, and the demand exceeded the supply.

Q. What effect did that have upon iron and steel prices?

A. They increased.

Q. Are steel rails and billets sold in the market comparable items from which any deduction can be drawn as to whether the market price of one or the other is controlled?

A. They have no relations whatever. They are neither of the same chemical composition nor are they sold for the same purpose. The market for billets might be in a very depressed condition and the market for rails might be very active, and *vice versa*. They are not used by the same consumers.

Q. Mr. Roberts, to your knowledge, obtained during your connection with the United States Steel Corporation, will you state whether or not it has in any respect restrained trade or has it extended trade?

MR. DICKINSON: Objected to as incompetent and irrelevant, too broad and comprehensive, not asking for facts, but only for a conclusion.

By MR. SEVERANCE:

Q. You may answer.

A. It has been the means, the very great means of extending trade, not only domestic, but foreign; the latter in a way which could not be done by any other organization now in existence in this country. This foreign trade is only possible by reason of this organization and the diversified products which it handles. So far as domestic trade is concerned, the reasonableness of prices, the reasonable limits within which prices have been held has increased consumption as against a very widely fluctuating market that existed previous to its organization.

Q. Will you state, Mr. Roberts, whether or not it has been the policy of the Steel Corporation to restrain trade or to extend trade?

MR. DICKINSON: That is objected to as irrelevant and self-serving.

THE WITNESS: It has been its endeavor at all times to extend trade.

MR. SEVERANCE: You may examine, Judge.

CROSS-EXAMINATION

By MR. DICKINSON:

Q. Mr. Roberts, what papers did you have in mind when you spoke of trade papers, and the quotation of prices in your recent testimony?

A. Such papers as the Iron Age, the Iron Trade Review, or, in the old days, there was one called the American Manufacturer, I think. Such papers as those.

Q. During what period covered by your testimony have

the Iron Age and the Iron Trade Review published prices?

A. The Iron Age ever since I became connected with the business or, as I recall, from the year 1876 until the present time.

Q. You do not attach any importance to those prices, as I understand your testimony, do you?

MR. SEVERANCE: I do not think you understood him to say that.

MR. DICKINSON: I think I know what I understood, and you don't.

By MR. DICKINSON:

Q. Will you answer the question or not?

A. I attach importance to those publications the same as I would to any hearsay evidence.

Q. To any hearsay evidence?

A. Yes.

Q. Then, if the hearsay evidence came from sources that were reliable you would regard it as credible, would you, and the facts stated as true?

A. If it came from the buyer or seller who actually made the transaction, that would have one degree of credibility; but if it came from another who had received it from a third party it would depend on circumstances as to what that credibility might be.

Q. Well, now, in speaking of these publications that have appeared from time to time in these trade journals, did you assume anything in regard to the sources from which they got their information, and anything in respect to their reliability?

A. I assumed that that was the published market price. I never undertook to believe that it was the actual buying or selling price.

Q. Then you distinguish between market price and buying and selling price?

A. Always.

Q. What is the difference, Mr. Roberts, between market price and buying and selling price?

A. It would depend upon every individual instance, as to the credit of the buyer, the time of delivery in which the goods

were required. There are a number of circumstances, such as the specifications which might be attached to the order. Each individual transaction would have to stand upon its own basis, whereas the market would be taken as a whole.

Q. Now, is there such a thing as a base price?

A. Yes.

Q. And those quotations that you referred to—do they give the base prices?

A. In some instances, where base prices are used.

Q. Generally where base prices are used, do they give them?

A. Usually. There would be a base price for bars, which represents certain sizes of bars, random lengths, and there are certain extras then for cutting to lengths, certain bearing extras for different lengths, and different sizes, different diameters of rounds.

Q. These base prices, were they the foundation from which other prices were figured, and were they or not accepted in the trade as the basis for figuring other prices?

A. In certain lines, yes; and under certain governing specifications.

Q. Generally speaking, when these trade papers published what were known to be base prices did they have any significance to the trade, and if so, what was it?

A. For instance, if a base price of bars was quoted that would be one thing. Other materials had no base prices. Plates had no base prices.

Q. I am speaking now of those things that had base prices, that were known to have base prices, and indications were given in respect to them. Did they have any acceptance when so published in these papers, with the trade, or not?

A. Not so far as buying and selling were concerned. For instance, a party wishing to buy a specification of bars, he might see the market price in the papers, but he would not send his order at that price without obtaining a quotation first.

Q. Then, according to your notion, they were perfectly useless, were they not?

A. No, sir.

Q. Now, then, explain just of what use they were.

A. They were of the same use as a thermometer would be in determining temperature.

Q. Well, if a thermometer is right, it is accepted generally, is it not?

A. Your feelings do not always agree with the thermometer.

Q. Yes, but the fact is that the temperature is indicated by a correct thermometer, is it not?

A. Yes, and I think that they correctly represented the market price.

Q. The market price?

A. Yes, the market price.

Q. The market base prices?

A. But the market price did not represent the buying and selling price.

Q. Then of what use was it with reference to the trade?

A. For general information.

Q. What is the information worth?

A. It gave the buyer or the seller some idea of what was generally going on.

Q. Is that so far as they were useful, to give him some idea of what was generally going on?

A. Yes, I think so.

Q. But they were no indication to him as to what the prices were?

A. As I said this morning, there was no uniformity in the establishment of these market prices. The reporter in one case might obtain positive definite information of the price at which a certain structure, for instance, had been sold, and he used that as his market figure. That market figure remained until some other equally important structure might make a different price. In other cases he sensed the market; he got the opinions of others, but it was not any uniform practice that he went out and obtained a market price and made this up absolutely from transactions which had already taken place.

Q. Now, you understand, do you, that my question relates to the publication of base prices?

A. The publication of base prices is another thing from what you started. You started with market price.

Q. I may have started with that, but that is where I am now. I am asking you of what acceptance and of what value, if any, the publication of base prices of various iron and steel products in these trade papers was to the people engaged in that business.

A. The publication of base prices would be of very little value compared with the market price.

Q. Just state what value it would be, then.

A. To whom.

Q. To the people I have indicated, who were buying and trading in these things.

A. It would depend entirely upon whether you were a buyer of that article. If you were a buyer of that article it would give you some indication of about the selling price, but not the selling price.

I think possibly we do not quite understand each other as to the base price.

Q. Possibly not. Now I will see if we can understand each other a little better. From your knowledge and experience in the iron and steel business, running over the period of time that you have just described, and from your knowledge of these trade journals and the publication of base prices of various products in iron and steel over the period of time indicated, what would you say is the value, if any, of these publications to the trade?

A. As indicating the opinion of the gatherers of news for these journals as to what they believed the value at that time was of the indicated material.

Q. And that is as far as you think the value of them extended?

A. I do.

Q. Were they not accepted generally?

A. At their worth.

Q. Wait a minute, please. Were they not accepted generally by people in the trade over the country as the base prices of the various articles that were obtaining at the respective times when they were published?

A. No, not to the buyer or the seller.

Q. Then, these gentlemen wasted very valuable time and these papers a great deal of valuable space, did they not?

A. No.

Q. Well, then, just tell me, will you, of what value to the trade, in your estimate, any of these publications were.

A. As I have said before, they indicated from their standpoint the general values prevailing at the time of their publication; it was never attempted to specify definitely that these were actually selling or buying prices.

Q. Were they approximate prices prevailing at that time?

A. At times, yes.

Q. Were they generally accepted as such?

A. At times, yes.

Q. At times?

A. Yes.

Q. But generally?

A. No, not generally.

Q. They were not generally?

A. No.

Q. So that they were generally discredited, were they?

A. No, they were not discredited.

Q. If they were not generally accepted, what were they?

A. You need not necessarily discredit a thing because you do not accept it. You verify it.

Q. That is one way of discrediting.

A. No, I would say that buyers and sellers, before proceeding with their transactions would verify the information which they had obtained from the trade papers.

Q. Then you do not think, do you, that those papers which published base prices from time to time were any index of the approximate sales that were taking place at that time, in those articles?

A. Yes, I think they were approximate.

Q. Approximate only?

A. Yes; in some instances they were exact.

Q. They were exact. Now, can you give me any estimate of what proportion of instances they were exact in, and in what proportion they were not?

A. No, sir; that is beyond me.

Q. Now, were these base prices that were published from time to time in these trade journals the prices at which the United States Steel Corporation sold?

A. I think that individual sales have always been made by the Steel Corporation at varying prices.

Q. Individual sales at varying prices?

A. Yes.

Q. What do you mean by that?

A. It may depend upon tonnage; it may depend upon the credit of the customer; a number of things govern individual sales, such as desirability of order and time of delivery.

Q. So that the published prices, then—did the Corporation have published prices?

A. Market prices.

Q. Did it publish market prices?

A. Such prices as the newspapers that I have referred to had, but a man has a price, and a bank has a discount rate, but your discount rate is not uniform to all customers of the bank, and if you had a market price or a selling price, will that price govern each individual order which you take?

Q. Then I understand you to say that throughout this period the Corporation had a published price, and that that did not indicate the prices at which they were selling?

A. Published prices to the same extent that I would term a newspaper has a market price. It affects conditions then existing, but each individual sale is made on its own merits.

Q. On its own merits?

A. It must necessarily be.

Q. And the published prices then of the Steel Corporation from time to time did not indicate necessarily the sales that were made to the various customers.

A. I never knew of any published prices.

Q. Announced prices?

A. Those were the announced market prices.

Q. Don't you know prices were announced by the Corporation?

A. No.

Q. In the trade journals?

A. No.

Q. And that these reporters came to the United States Steel Corporation from time to time and got announcements of prices?

A. Never from the Steel Corporation that I know of. They may have from their subsidiaries.

Q. How about Judge Gary. Don't you know that he from time to time gave announcements to these trade papers which were published in regard to prices?

A. Announcements as to what?

Q. As to prices at which commodities were selling?

A. No, I never knew of anything of that kind.

Q. You never knew anything of that kind that occurred?

A. No.

Q. How about Mr. Farrell?

A. I do not know of any that he announced.

Q. Did I understand you to say, Mr. Roberts, that the prices sold at by the Corporation were not uniform, but they varied according to the conditions of the individuals and to the particular trade that was made at a particular time? Is that a fact?

A. There is no such thing as a fixed price, absolutely fixed, that I know of.

Q. With a concern like the Steel Corporation, treating all customers alike, there is no such a thing as uniformity?

A. All conditions being equal there is.

Q. What do you mean by all conditions being equal?

A. Two customers having identical specifications, identical time for delivery, identical quality of material, identical credit, would at the same time receive no doubt the same quotation.

Q. You say no doubt?

A. Yes; I say positively.

Q. Are you speaking positively or theoretically?

A. No, positively. That would be the policy of the United States Steel Corporation.

Q. And how about the base prices? Were they uniform?

A. What do you mean by a base price? I don't understand.

Q. I understand that there is a base price made for certain articles of standard sizes and qualities, and then variations from that have certain additions, but that it all relates back to this base price as a starting point for calculating. If that is not right I would like you to tell what a base price is, because we would like to get it in the record.

A. I think you were probably considering one output, namely bars.

Q. No, I was not. I was considering rails among other things.

A. There is no base price for rails.

Q. Never heard of \$28 base price for standard rails?

A. Yes; I have heard of \$28 a ton for standard Bessemer steel rails.

Q. You never heard of it as a base price?

A. I used the term "base" yesterday in stating that in fixing the prices of rails we used \$28 as a base price to start on.

Q. I am not asking you what you said yesterday. I am asking now whether you ever heard of \$28 as being the base price for standard rails, and that from that base price for rails special qualities and specifications are figured, the additional cost of these variations being added to this base price?

A. No, I do not know that I ever have outside of my own testimony which I gave yesterday. Going on to say what I started——

Q. You want to answer further on my question?

A. Yes, I wish to answer your question further. Taking beams, for instance, beams from 3 to 15 inches, I am speaking of your question as to base prices.

Q. All right, if you think it is relevant, go ahead.

A. Beams, 3 to 15 inches, are always quoted at one price per pound. When you reach sizes above 15 inches they are at a higher price, but there is no base price for beams. There is no base price for plates. The base price of bars has been from time immemorial—we always had what is known as a

base price for bars, which covered certain sizes. Then, any variations from those sizes were known as extras. Sometimes for years the base price was disregarded entirely, and specifications were quoted on, based simply on their desirability. The base price, the term base price has very little significance in the trade.

Q. You speak of base price for bars from which the prices for variations of other bars were figured? You said that, didn't you?

A. Yes; that is correct.

Q. Can you name any other thing besides bars for which there was a base price and which was taken as a starting point for figuring the other prices of products that were correlated with them?

A. I do not know until you get off the line of things I am not so familiar with, in the way of lighter class products, of wire mills and sheets.

Q. I will repeat the question which I asked you and which I do not think you fully understood, whether or not you ever heard of \$28 being a base price for standard rails?

A. I have said no.

Q. You have never heard of that?

A. I have said I have heard of the price of \$28 per ton for standard Bessemer steel rails.

Q. Did you never hear of that being taken as the figure from which the price of other rails is estimated, allowing for the additional cost on account of the special specifications for other rails?

A. No; not beyond as I used it yesterday in my testimony.

Q. Just go on.

A. That is all I have to say.

Q. Do you mean to say that you decline to answer the question?

A. No, sir; I do not. I am trying to discover what you want to find out.

Q. Read the question to him. If he cannot discover it from that I will try to make it plainer.

(The question referred to was repeated by the stenographer.)

A. Standard Bessemer steel rails at \$28.00 per ton represent the minimum price for certain chemical and physical requirements. Other specifications differing from these for Bessemer rails will command higher prices. They do not, however, necessarily have any connection one with the other.

Q. Is the price of these special kinds figured by taking the \$28.00 price of the standard rail as the basis and then reaching the other price by adding the cost of the special additions or changes through these specifications that you refer to?

A. It is not, as I answered to the previous question.

Q. You say that the \$28.00 is the minimum price for Bessemer standard rails of a certain quality. Has it not been the maximum price of Bessemer standard rails for that quality ever since 1901; and if it has not, state any instance that you know where Bessemer rails of that quality for which \$28.00 has been accepted as the minimum price have been sold for a higher price, and by whom and to whom?

A. I have no knowledge of any variation in the price of Standard Bessemer steel rails during the period mentioned.

Q. When you say it was a minimum price, has it not also been a maximum price for that quality during that period?

A. It has.

Q. Are there not certain fixed sizes that are quoted for beams which are quoted in the trade papers as base, from which the others are figured?

A. I have already stated this morning, in reply to a former question, that beams from 3 to 15 inches in depth are quoted at a smaller price, while beams over and above 15 inches in depth are usually sold at a higher price.

Q. Is that price reached by taking the others as a base and then figuring the additional cost or not?

A. Not necessarily.

Q. How is it done, and how is it accepted and understood in the trade?

A. There is a relation between the two, but it varies with specifications, length and sizes.

I would further explain that by saying that there are only a very few manufacturers who make beams over fifteen inches

in depth, while there are a number who make them from three to fifteen inches. Those larger sizes are much more difficult sections to roll. They are not dependent on the smaller sizes at all, but are controlled by the few makers who make them, who fix their own price.

Q. There is no relation between them and the other price based upon the difference in cost of the additional work and material?

A. No; because they could not be made in the same mills that make the others. The cost of manufacture of those large sizes is an entirely different matter.

Q. How about plates? Are there certain fixed prices for plates for certain sizes?

A. No; not that I know of.

Q. Are there certain sizes upon which quotations are made?

A. Quotations are made from specifications, which usually contain varying sizes.

Q. But do the market quotations refer to any special sizes?

A. No. They may refer to what would be called normal sizes.

Q. What are they?

A. I could not give any definite arrangement. There would not be any definite arrangement. There would not be any definite arrangement to express in feet or inches; but if you had a specification of very different sizes, very few in number for each size, so that it required a great variation in kinds, that specification would be sold at a higher price than one where there were a great many uniform sizes, for instance——

Q. As to the publication in the trade papers in respect of normal size, what sizes are those?

A. There are none that I know of.

Q. There are none?

A. No, sir.

Q. And if you saw a publication of a price at such and such a time, would that indicate nothing as to sizes?

A. No, sir.

Q. What would it indicate?

A. It would indicate the price of plates.

Q. Without regard to size?

A. Unless the sizes might be abnormal; but there is no definite line which can be drawn.

(Whereupon a recess was taken until two o'clock p. m.)

AFTER RECESS.

PERCIVAL ROBERTS, JR.,

the witness under examination at the taking of recess, resumed the stand.

CROSS-EXAMINATION (Continued),

By MR. DICKINSON:

Q. When did you become a stockholder in the United States Steel Corporation?

A. Upon the exchange of the stock which I held in the American Bridge Company for the stock of the Steel Corporation in 1901.

Q. Did you at any time cease to be a stockholder, and if so, when?

A. No, sir; not entirely.

Q. You have been continuously?

A. I sold the bulk of these holdings when I retired from my directorship in 1902, but retained a portion.

Q. You have been continuously a stockholder from that time down to the present time?

A. I have.

Q. And are now?

A. I am.

Q. Up to the formation of the American Bridge Company your special experience, I suppose, in the iron and steel business was in connection with the Pencoyd, was it not, as a manufacturer?

A. My direct connection was in connection with the Pen-

coyd Iron Works, and also as part owner of certain blast furnaces in Pennsylvania.

Q. What were they?

A. The Morgan Iron Works at Lewistown, Pennsylvania.

Q. How long were you connected with them; what period?

A. Until their abandonment, some time about 1894.

Q. With that exception, was your practical experience entirely with the Pencoyd, down to the time that it went into the American Bridge Company, or did you have any practical experience with any other concern, and if so, what?

A. Only such experience as I might have from visits to other works, and consultation with their managers.

Q. Those were occasional, I presume, were they?

A. They were constant.

Q. What do you mean by constant? We have had quite a little dissertation on that subject once, and I would like to get you to define what you mean by constant.

A. They were constant, with varying fluctuations, I might say.

Q. It was sort of like intermittent fever or remittent fever?

A. Something like malaria; it came and went.

Q. I never heard of malaria going until it went for good, as I think you would find if you ever went into a malarial country.

A. Then you haven't had much experience with malaria, for I get it twice a year as regularly as the year comes around.

Q. Now, you say constantly with some intermissions; what character of works did you visit?

A. Prior to 1900 I was actively connected with various engineering societies—the Mechanical Engineers, the American Society of Civil Engineers, and the American Society of Mining Engineers. Those organizations had periodical meetings in various parts of the country for the reading of papers and the visiting of various works connected with the iron and steel industry. In that way I became more or less familiar with the various establishments, and also in those days we were very much smaller in number, and we had a large per-

sonal acquaintance with each other and frequently made visits to each other's establishments.

Q. The information you got, I suppose, was of a general character?

A. Some was general and some was detailed. We examined each other's drawings and plans and so on for the different departments, and exchanged plans in some cases.

Q. What else? Now that we have got into that, I would like to know just the extent and character of this information you got?

A. I think that would cover it.

Q. Now, before the Pencoyd went into the American Bridge Company and back to 1895, please state what products were produced by the Pencoyd and sold in the market. Mind you, I am speaking of producing and selling.

A. They produced a full line of structural shapes, comprising all sizes of beams, angles, channels and Z's, and flats up to 12 inches in width, rounds for shafting up to 6 inches in diameter, hammered car axles, car spring steel, and at times billets, tin plate bars and some blooms.

Q. To what extent, if any, were you a seller of tin plate bars from 1898 up to the time you went into the American Bridge Company?

A. I could not give the specific amount, as it was entirely a by-product of our concern and only sold at such times as we had not sufficient orders for finished material to use the product of our steel making furnaces.

Q. Can you give any idea at all?

A. I could not.

Q. Not even approximately?

A. No, I could not.

Q. Can you say positively during that period you did sell any tin plate bars?

A. I think very likely in 1897 and 1898 we did.

Q. My question was from 1898 down to the time of the formation of the American Bridge Company.

A. I said in 1897 or 1898.

Q. But about 1899 and 1900?

A. I could not say. I speak of that period as a time in which production was in excess of consumption.

Q. Well, at any time during that period?

MR. SEVERANCE: Pardon me. You mean 1897 or 1898?

THE WITNESS: Yes.

MR. SEVERANCE: I wanted to know which two years you meant.

By MR. DICKINSON:

Q. Did you at any time before you became connected with the United States Steel Corporation have anything to do with the manufacture or sale of rails?

A. I did not.

Q. How about merchant bars?

A. We sold a considerable tonnage.

Q. During what years?

A. Until the formation of the American Bridge Company.

Q. From what period up to what time?

A. From 1876.

Q. You sold constantly merchant bars from 1876?

A. From commencing about 1856; originally they were all wrought iron.

Q. Take the period from 1898 to the time you went to the American Bridge Company, you sold merchant bars?

A. We did; we sold some after the formation of the American Bridge Company.

Q. I am not asking about that; I am asking up to that time.

A. Yes.

Q. Were the amounts considerable or small?

A. It was a fair percentage of our output.

Q. Was it a regular part of your output?

A. Yes.

Q. Where did you sell them?

A. In the eastern markets.

Q. Where?

A. In the eastern markets.

Q. How far east?

A. Through New England, New York, Pennsylvania and some went to California by water.

Q. Well, from 1895 down to the time of the formation of

the American Bridge Company, did the Pencoyd make any hoops?

A. No.

Q. Did they make any bands?

A. No.

Q. Did they make any cotton ties?

A. No.

Q. Did you have any experience before you became connected with the United States Steel Corporation in the sales of hoops, bands or cotton ties or rails?

A. No.

Q. How about plates?

A. What we knew as grooved rolled plates up to twelve inches in width, yes.

Q. Mr. Roberts, what did you know, if anything, at the time it was in existence, about the wire nail pool in 1896?

A. Nothing.

Q. Were you engaged in the manufacture or sale of tin plates before your connection with the United States Steel Corporation?

A. No.

Q. Or sheet steel?

A. No.

Q. Mr. Roberts, what constituent first comes to your mind of those companies that went into the National Steel Company at its formation?

A. I do not think I quite understand the question.

Q. I will change the question. State what concerns at the time of its formation in February, 1899, were taken over by and came under the control of the National Steel Company.

A. The first one of the various concerns?

Q. Yes.

A. I cannot answer from memory. It is a matter of record.

Q. Can you name any of them from memory?

A. I cannot.

Q. Can you name from your knowledge of the steel and iron business, acquired over the long period in regard to which you have testified and acquired in the way in which you have testified, what various products were made by the

various concerns that came under the control of the National Steel Company at its organization in February, 1899?

A. Principally pig iron—

Q. Wait a minute. Read the question.

(The stenographer repeated the question as follows:)

“Q. Can you name from your knowledge of the steel and iron business, acquired over the long period in regard to which you have testified and acquired in the way in which you have testified, what various products were made by the various concerns that came under the control of the National Steel Company at its organization in February, 1899?”

MR. DICKINSON: Add to that: Giving the products for each concern separately.

THE WITNESS: With that addition I would answer no. I started to answer—will you divide the question in two?

By MR. DICKINSON:

Q. You can answer it as you please. I do not care to divide it.

A. I do know the principal products made by the constituent companies, but I do not know what percentages each individual constituent company made of those products.

Q. Name the products made at that time by any one of the constituent companies, giving the name of that company.

A. I have already said that I do not know at this time, or I do not remember at this time, the names of those companies in detail. They are a matter of public record, but that the principal output of those constituent companies, the principal output were pig iron and steel billets, and at times a small quantity of steel rails.

Q. Did all of them, according to the recollection which you are now giving, make steel rails?

A. No; one plant only made steel rails.

Q. Which one is that?

A. The one at Youngstown, I believe.

Q. What is the name of it?

A. I cannot give you the exact name.

Q. You mentioned billets. Did all of them make billets?

A. Those that had Bessemer plants made billets.

Q. Which ones were they?

A. I cannot give you the names.

Q. Which of them made pig iron?

A. All of the blast furnaces which went into the——

Q. Which of them had blast furnaces?

A. I cannot give you the details or the names.

Q. I understand you cannot give the amount of the several products made by each at the time they were taken over by the National Steel Company?

A. No, sir; I cannot.

Q. Can you give from your present knowledge the territories in which they were selling their respective products? If you know, just state where each one was selling its product.

A. Principally in the Central West and in the Pittsburgh District.

Q. Name those which sold in the Central West and those which sold in the Pittsburgh District, and what they sold, each?

A. Those territories were common to all.

Q. My question is for you to name those constituent companies which sold in the West and what they sold in the West.

A. I said all of those companies forming the National Steel Company sold in the Central West and the Pittsburgh District.

Q. All of them sold in both?

A. In both.

Q. Both the Central West and the Pittsburgh District?

A. They were principally located in Western Pennsylvania and Ohio.

Q. And all of them sold in the West?

A. In the Central West.

Q. And the Pittsburgh District?

How far do you go in your term Central West?

A. I should say the Central West extended between the western limits of Pennsylvania and to within a distance of probably 100 miles east of Chicago, or, in some cases, even to Chicago itself, as distinguished from——

Q. What did they sell in the Central West?

A. They sold pig iron and sold billets. Some of them sold some amounts of finished material of various kinds.

Q. Just state the various kinds.

A. There were some few that had hoop mills; some few had sheet mills, which were afterwards taken over by the Sheet Steel and by the Hoop Companies on their formation. They segregated those departments of the constituent companies of the National Steel and they were taken over and operated by the other three companies of what was known as the Moore group.

Q. Which of those that went under the control of the National Steel Company at its formation had hoop mills?

A. I cannot give you them in detail.

Q. Can you give any approximation of the amount of their products separately in hoops?

A. No.

Q. Which of them had sheet mills?

A. I cannot answer.

Q. Can you give any approximation as to that?

A. I cannot.

Q. Do you know the financial condition at the time the National Steel Company was formed of those several concerns, covering the amount of capital of each one, whether or not they were in a solvent or an insolvent condition? Can you give that information as to either of these points, as to any? If so, name them, and give the facts.

A. Prior to the formation of the National Steel?

Q. Just preceding it, yes.

A. No; I cannot.

Q. Do you know anything about that?

A. Only from hearsay.

Q. I am not asking for hearsay. I am asking if you know anything about it?

A. Personally, no.

Q. Personally you do not?

A. I never saw their books.

Q. You never saw their books? Do you know the capitalization?

A. I do not. Many of them were not incorporated and had no capitalization.

Q. Many of them were not incorporated?

A. No; they were personal partnerships.

Q. How many of them were taken over by the National Steel Company?

A. I do not know the number. It is a matter of public record.

Q. Approximately how many?

A. It is a public record. I would not attempt to state.

Q. You have no approximation to give us of that?

A. I have not.

Q. What proportion of them were unincorporated, and what proportion were incorporated?

A. I do not know.

Q. You can give us no information on that subject?

A. No.

Q. Mr. Roberts, do you know whether the Shenango Valley Steel Company, of New Castle, Pennsylvania, was taken over at that time by the National Steel?

A. I think that was one of the component companies of the National Steel.

Q. Do you know it was one of those taken over or not?

A. I think it was.

Q. Did that have any allied companies? If so, what were they?

A. I could not give you that. It is a matter of public record.

Q. Was it a corporation or a partnership?

A. I cannot answer that question.

Q. What products at that time, at the time it was taken over by the National Steel Company, were made by the Shenango Valley Steel Company and its allied companies, naming each, with the lines in which they were engaged?

A. I cannot answer that question.

Q. Mr. Roberts, you have referred in your testimony to Swank's Directory, and in one of your answers you said it was based partly on information derived from the United

States census, and in part, Swank's Directory. Do you know that publication?

A. Swank's Directory?

Q. Yes; it is called Directory of the Iron and Steel Works of the United States, published by Swank. The year to which I am referring is in the volume for 1898.

A. Published by the American Iron and Steel Association?

Q. Yes; you know that?

A. Yes.

Q. I will ask you to look on page 141 of the volume for 1898, and get you to read, which I will offer in evidence, what there appears under the heading of Shenango Valley Steel Company.

MR. SEVERANCE: Objected to as incompetent.

THE WITNESS (reading): "Shenango Valley Steel Company, New Castle, Lawrence County. Two completed works and one works building, all located at New Castle. Shenango Valley Steel Works; two 8-gross-ton Bessemer converters, built in 1892 and first blow made November 2, 1892; annual capacity, 400,000 gross tons of ingots; one 36-inch blooming mill and two 5-hole soaking pits; one bar mill, containing 12 trains of rolls driven by four engines; product, steel billets and 14-inch tinplate and sheet bars; annual capacity, 300,000 gross tons; fuel, coal and producer gas. Shenango Valley Tinplate Works; building"—

MR. SEVERANCE: Do you want him to read about any other company?

MR. DICKINSON: Right straight through.

MR. SEVERANCE: But to follow the example of my learned friend, I suggest it would not be responsive. It is about another company.

MR. DICKINSON: Do like I did—except.

MR. SEVERANCE: I will. You will accept it as responsive, will you?

MR. DICKINSON: Very well; let him go on. I have asked for it and I cannot get out of it.

THE WITNESS: You asked me to read about the Shenango Valley Steel Company. I have finished that.

By MR. DICKINSON:

Q. Read on. Where did you stop?

A. I stopped at the end of the matter relating to the Shenango Valley Steel Company.

Q. Where did you stop?

A. I stopped at the word "gas."

Q. That was the first time you shut it off. Now, will you just go on?

MR. SEVERANCE: Is that a question?

By MR. DICKINSON:

Q. Go on, Mr. Roberts.

A. (Reading) "Shenango Valley Tinsplate Works; building a plant to contain 30 sheet and 30 pair furnaces, 12 annealing furnaces, and 30 hot and 27 cold mills; product to be black plates for tinning; annual capacity, 60,000 gross tons. New Castle Wire Nail Works, (formerly operated by the New Castle Wire Nail Company,) built in 1887 and enlarged in 1891; rod mill added in 1889; 3 gas heating furnaces, 4 trains of rolls, (9, 10, 12 and 16-inch,) one hammer, and 300 wire-nail machines; product, wire rods, wire and wire nails; annual capacity, 90,000 gross tons of rods, 75,000 tons of wire, and 1,250,000 kegs of nails; fuel, coal; brand, "New Castle." William E. Reis, President; William Patterson, Vice-President; George B. Berger, Secretary and Treasurer; John Stevenson, Jr., Superintendent. See Furnaces in the Shenango Valley and Shenango Valley Tinsplate Works in Pennsylvania."

Q. Now, will you turn to page 23 and near the top, beginning with the words "Shenango Valley Steel Company," please read down through the words "works in Pennsylvania."

A. (Reading:) "Shenango Valley Steel Company, New Castle, Lawrence county. Three stacks, all at New Castle. Neshannock Furnace, (formerly operated by the Crawford Iron and Steel Company,) one stack, 78x18½, built in 1872; first put in operation December 1, 1872; remodeled in 1883; four Whitwell stoves, three 60x17 and one 60x18, and one improved Massicks & Crooks stove, 75x19½. Shenango Furnaces, (formerly called the Norway Furnaces and operated

by The Norway Iron and Steel Company,) two alternate stacks, each 80x17 $\frac{3}{4}$; one, built in 1872 and put in blast in May, 1872, entirely rebuilt in 1891; and one built in 1889 and put in blast September 6, 1889; three Cowper stoves. Fuel, coke; ore, Lake Superior; product, Bessemer pig iron consumed by the company in its steel works; annual capacity: Neshannock Furnace, 115,000 gross tons; Shenango Furnaces, 90,000 tons for each stack. Brands, 'Neshannock' and 'Shenango.' Active in 1898. See Shenango Valley Steel Company in Western Pennsylvania. See Shenango Valley Tinplate Works in Pennsylvania."

Q. Please turn to page 250 and read there what occurs under the Shenango Valley Tin Plate Works.

A. (Reading:) "Shenango Valley Tinplate Works, Shenango Valley Steel Company, New Castle, Lawrence county. Building a tinning plant to contain 40 tinning sets; product, tin and terne plates; estimated weekly capacity, 27,000 boxes. Fuel, coal. Will make black plates. See Shenango Valley Steel Company in Western Pennsylvania for a list of officers. See Furnaces in the Shenango Valley, Pennsylvania."

Q. Please turn to page 363, near the bottom, and read what it has under Shenango Valley Steel Company, under the head of blast furnaces on that page, beginning down near the bottom, Shenango Valley Steel Company.

A. (Reading) "Shenango Valley Steel Company, New Castle, Lawrence county. Company expects to install new machinery at its Shenango Furnaces in 1899; will then change the two alternate stacks to two separate furnaces."

Q. Now, Mr. Roberts, you have been speaking about integration at some length. Do you know the New Castle Wire Nail Works?

A. I do not.

Q. Do you know that they were owned by the Shenango Valley Steel Company?

A. I did not know them by actual visiting. I do not know without reference that they were owned by them.

Q. Don't you know that they were sold by the Shenango Valley Steel Company to the American Steel & Wire Company?

A. That is one of the character of transactions which I spoke of a few moments ago, in which the National Steel Company segregated certain of these finishing establishments that belonged to its constituents, and they were operated by the other corporations of the Moore group.

Q. Was the American Steel & Wire Company one of the Moore group?

A. No; it was not one of the Moore group.

Q. Then don't you know that the Shenango Valley Steel Company sold the Newcastle Wire Works to the American Steel & Wire Company?

A. I do now that you tell me, yes.

Q. Wasn't the Shenango Valley Steel Company making a great variety of products?

A. They were contemplating it rather than doing it in actuality.

Q. You mean to say that from the statements shown here those things were in mere contemplation and not in reality?

A. No. They were building. They were not established industries.

Q. What were not established industries?

A. The tin plate plants and those more highly finished products than billets, which I have read in these pages.

Q. How many wire and wire nails?

A. They made some wire nails.

Q. What does that show to be the amount of wire nails?

MR. SEVERANCE: I suggest you permit him to finish his answer.

MR. DICKINSON: All right.

THE WITNESS: I shall have to refer to this book.

By MR. DICKINSON:

Q. Does it show on page 142 that the New Castle Wire Nail Works, formerly operated by the New Castle Wire Nail Company, was enlarged in 1891?

A. What page is that?

Q. Page 142.

A. I am just coming to that.

Q. Towards the top, "rod mill added in 1889; 3 gas heat-

ing furnaces, 4 trains of rolls, (9, 10, 12, and 16-inch,) one hammer, and 300 wire-nail machines; product, wire rods, wire, and wire nails; annual capacity, 90,000 gross tons of rods, 75,000 tons of wire, and 1,250,000 kegs of nails''; isn't that what it shows?

A. Well, it shows that if that wire went into nails it did not then produce wire. Its annual capacity, you see, of rods is 90,000 tons. Therefore it could not have made 75,000 tons of finished wire for the market and 1,250,000 kegs of nails.

Q. Could they not have bought some and added to what they made?

A. Exactly.

Q. What I am asking you is whether or not you undertake to say that they did not make nails and wire and rods at that time?

A. Oh, no; I did not undertake to say that.

Q. You did not undertake to say that?

A. I said they did.

Q. How about making tin plate before the American Tin Plate Company was formed; do you know?

A. From the statements in this book I do not think they did. They here have a statement, on page 142——

Q. Do you know anything about——

MR. SEVERANCE: One moment. I object to your interrupting the witness continually until he has finished his answer.

THE WITNESS: They here have a statement on page 142, where they speak of the product being black plate for tinning, which was in contemplation. On one of the other pages which I read, on page 250, Shenango Valley Tin Plate Works, building a tinning plant to contain forty tinning sets.

Q. What was that?

A. That was in this same volume.

Q. What year?

A. 1898.

Q. Do you know that they were not making tin plate?

A. Not at that time.

Q. No; but at the time it was taken over, later, at the time

the Shenango Valley sold it to the American Steel & Wire Company?

MR. SEVERANCE: What did they sell to the American Steel & Wire Company?

MR. DICKINSON: No. I mean to the American Tin Plate Company.

By MR. DICKINSON:

Q. Do you know anything about that?

A. I do not positively.

Q. Do you know anything about the New Castle Sheet & Tin Plate Company?

A. You mean as to its product or output?

Q. Yes; do you know, yourself?

A. As to amount?

Q. Yes; as to amount.

A. No; I don't know the amount.

Q. Do you know when it began to make the several products?

A. As to the actual dates, no.

Q. Do you know to what interest they belonged?

A. It was one of those plants which became part of the Tin Plate Company.

Q. What did it belong to before it became a part of it?

A. I cannot answer that question.

Q. Mr. Roberts, I will ask you to turn to page 169 and page 170, and I will offer in evidence and ask you to read there. I will ask you to read what occurs under the head of "Aetna Iron & Steel Company," reading down to the word "Beaver," on page 170:

A. (Reading:) "Aetna-Standard Iron and Steel Company, Bridgeport, Belmont county. Five works: Three works at Bridgeport, Belmont county, and two works at Mingo Junction, Jefferson county. Aetna Works, at Bridgeport, built in 1873 and put in operation January 1, 1874; enlarged in 1883 and 1891; 1 reverberatory and 4 regenerative gas heating furnaces, 6 sheet mill softening, 4 sheet mill pair, and 6 box annealing furnaces, and 11 trains of hot rolls (one 20-inch muck, one 16-inch bar, and one 8 and one 9-inch guide,

all 3-high; one 21, two 24, and two 26-inch sheet; and two 24-inch black plate, the latter equipped with 2 pair heating and 2 softening furnaces and 3 stands of cold rolls); product, steel bars, sheets, plates, bands, light T rails, angles, tees, channels, and miscellaneous shapes; annual capacity, 50,000 gross tons; brand, 'Aetna'; (formerly operated by the Aetna Iron and Steel Company). Standard Sheet Mill Works, at Bridgeport, built in 1882-3 and put in operation April 1, 1883; remodeled in 1888 and 1892; 7 pair heating furnaces, 7 softening furnaces, 7 single and 3 double annealing furnaces, 7 trains of finishing rolls, (one 22, one 23, four 24, and one 26-inch,) and one stand of cold rolls; product, black plates, steel sheets, galvanized iron, corrugated iron, and other forms of roofing iron; annual capacity, 14,000 gross tons; brand, 'Standard'; (formerly operated by The Standard Iron Company). Standard Black Plate Mills, at Bridgeport, formerly operated by The Standard Iron Company as a sheet mill; 4 pair heating, 4 softening, and 1 single and 2 double annealing furnaces, four 24-inch black plate hot mills, and five 22-inch cold mills; product, black plates for tinning; annual capacity, 7,200 gross tons. Fuel used in the three works described above, natural gas, producer gas, and coal. Junction Works, at Mingo Junction, (two works,) formed by the consolidation of the Junction Iron Company and the Laughlin and Junction Steel Company in September, 1894; original plant (formerly operated by the Junction Iron Company) built in 1882 and put in operation November 1, 1882; remodeled in 1895; now consists of 2 gas heating furnaces, one 3-high 20-inch mill, and one continuous and Belgian mill; product, merchant steel bars; annual capacity, 40,000 gross tons; (cut-nail factory, containing 142 nail machines and a nail plate train, abandoned in 1895). Steel department (formerly operated by the Laughlin and Junction Steel Company), built in 1885-6; two 5-gross-ton Bessemer converters; first blow made February 8, 1886; one 5-hole soaking pit and a blooming mill; product, blooms, slabs, and billets; annual capacity, 120,000 gross tons. The steel department is being modernized, and is to contain two 10-gross-ton Bessemer converters, complete new blooming mill, labor-saving appliances, etc.; will be in opera-

tion in July or August, 1898, and will have an annual capacity of from 300,000 to 400,000 gross tons of slabs and billets. An open-hearth steel plant may also be added. When the improvements in the steel department are completed the two 5-gross-ton Bessemer steel converters will be abandoned. Fuel at the Junction Works, coal and producer gas. (The Junction Works were consolidated with the works of the Aetna-Standard Iron and Steel Company on July 1, 1897.) W. T. Graham, President; John A. Topping, Secretary; J. J. Holloway, Treasurer; B. M. Caldwell, General Manager. See Furnaces in the Miscellaneous Bituminous list in Ohio. See Tinsplate Works in Ohio."

Q. I will ask you now to read from page 51, under the heading "Aetna-Standard Iron," down through that paragraph.

A. (Reading): "Aetna-Standard Iron and Steel Company, Bridgeport. Three stacks, two owned and one leased. Mingo Furnaces, at Mingo Junction, Jefferson county, two stacks: No. 1, 75 x 17, built in 1871 and rebuilt in 1886; No. 2, 75 x 17, built in 1872 and rebuilt in 1886; four Gordon-Whitwell-Cowper stoves; fuel, Connellsville coke; ore, Lake Superior; product, Bessemer pig iron; annual capacity of each furnace, 80,000 gross tons; company has sufficient machinery to run one furnace only at a time. Contracts have been placed for part of the machinery necessary to operate both furnaces at Mingo Junction; Furnace No. 2 may be raised and its capacity increased. (Operated by the Junction Iron and Steel Company until its consolidation with the Aetna-Standard Iron and Steel Company on July 1, 1897.) Jefferson Furnace, at Steubenville, Jefferson county, leased from the Jefferson Iron Works: one stack, 78 x 18 $\frac{1}{4}$, built in 1865 and rebuilt in 1889; four Gordon-Whitwell-Cowper stoves; fuel, Connellsville coke; ore, Lake Superior; product, Bessemer pig iron; annual capacity, 80,000 gross tons.—Active in 1898. See Rolling Mills and Steel Works in Ohio, (Ohio River Counties District). See Tinsplate Works in Ohio."

Q. Now turn to page 253 and read there under the head-

ing of Aetna Standard Iron & Steel Company, through the first paragraph.

A. (Reading):

“Aetna Standard Iron & Steel Company, Bridgeport, Belmont county. Tinning plant added to rolling mill in 1894; first tin and terne plates made in May, 1894; 8 sets, 6 for tin plates and 2 for terne plates; weekly capacity, 4,750 boxes of 14x20 tin and terne plates. Fuel, natural gas and coal. Brands, for tinplates, ‘Aetna’ for coke and ‘Aetna,’ ‘Aetna A,’ ‘Aetna AA,’ and ‘Aetna AA1’ for charcoal; for terne plates, ‘Belmont,’ ‘Belmont Special,’ ‘Belmont Best,’ and ‘Standard.’ Makes black plates. Selling agents, Harrington, Robinson & Co., Boston; A. Schroeder, New York; Simpers & Brother, Philadelphia; H. L. Green & Co., Chicago; Good & Waterman, St. Louis; L. A. Hastings & Co., Denver; T. H. Speddy, San Francisco. See Rolling Mills and Steel Works in Ohio (Ohio River Counties District) for a list of officers. See Blast Furnaces in Ohio, (Miscellaneous Bituminous list.)”

Q. What mills and furnaces did the Ohio Steel Company have in 1898, and what mills and furnaces was it building in 1898, and what was the capacity of its several mills and furnaces?

A. For an answer to that question I would refer to the Iron & Steel Directory of the United States for the year 1898.

Q. Now, I would like for you to see how much you can tell from your knowledge, derived from your long experience in the business and the ability that you acquired thereby for giving an opinion on the iron trade and the prices of the various iron and steel products. Now, from that information and education and learning, independent of what these statistics show, I would ask you to answer my question if you can.

A. From memory I cannot.

Q. Can you give any information from memory on that subject?

A. From memory, no.

Q. Now, then, I will help it out. I will ask you to turn to page 49 of the same book and read there under the word “Projected,” down through those two paragraphs.

A. Before reading, in reply to your question—I cannot from my experience answer what may have been projected at that time other than what might have been published. I read from under the heading “Projected.”

“The Ohio Steel Company, Youngstown, Mahoning County, contemplates erecting in 1898 two modern blast furnaces at Youngstown, Mahoning County. See Rolling Mills and Steel Works in Ohio, (Mahoning Valley District).

“Number of coke furnaces in Mahoning Valley, including furnaces in Columbiana county: 13 completed stacks and 2 stacks projected.”

Q. Now, we will turn from things projected to things in posse, and things in esse.

A. In se.

Q. I will ask you to turn to page 163 and read there what you might have recollected if you had known.

MR. SEVERANCE: It would be a matter of recollection if he recollected it.

MR. DICKINSON: No, he could not have recollected it if he did not know it.

MR. SEVERANCE: He could not have recollected it if he did not recollect it.

MR. DICKINSON: I do not think it is necessary to characterize that.

THE WITNESS: What shall I read, sir?

By MR. DICKINSON:

Q. Read from the beginning, “Ohio (The) Steel Company,” that paragraph.

A. (Reading): “Ohio (The) Steel Company, Youngstown, Mahoning county. Built in 1893-4; two 10-gross-ton acid Bessemer converters; first steel made February 4, 1895; four 4-hole soaking pits, 4 trains of rolls, (one 34-inch blooming and three 24-inch roughing and finishing), and one 1,500-lb. hammer; product sheet and tinplate bars, slabs, billets to 1½ inches square, and T rails; annual capacity, 500,000 gross tons of ingots or 450,000 tons of rolled products. Fuel, coal. Contemplates erecting several basic open-hearth steel furnaces. Henry Wick, President; J. G. Butler, Jr., Vice-Presi-

dent; William H. Baldwin, Secretary; Thomas McDonald, superintendent. See Projected Blast Furnaces in Ohio, Mahoning Valley District."

By MR. DICKINSON:

Q. What mills and furnaces did the Sharon Iron Company, Limited, have?

A. May I have that previous question?

Q. I just asked you to read it.

A. I thought you asked me if I could recall things in existence as contrary to things projected.

Q. Do you want to know what has been asked you? Do you want to read back?

A. I thought when you asked me to read it that you said first you called my attention to something that was in existence, whether I remembered it?

MR. SEVERANCE: He did; he said in esse.

By MR. DICKINSON:

Q. I am asking now, do you know what mills and furnaces the Sharon Iron Company, Limited, had in 1898?

A. This is the Ohio Steel Company.

Q. Yes, but I am through with that. I am asking you now do you know what mills and furnaces the Sharon Iron Company, Limited, had in 1898, and do you know what mills and furnaces, if any, it was building in 1898, and what was the capacity of its several mills and furnaces, existing and projected, if any?

A. I do not, without reference to this directory.

Q. Without reference to that, from your general knowledge of the steel business extending over the period as you have described it, you cannot give us any information on that subject?

A. Not from memory.

Q. Then I will ask you please to turn to page 140, and I will offer that in evidence and ask you to read what occurs under the heading of—down towards the bottom—Sharon Iron Company, Limited. Go through the second paragraph.

"Sharon Iron Company, Limited, Sharon, Mercer county. Built in 1850; 10 single and 14 double puddling furnaces, 12

heating furnaces, and 11 trains of rolls (one 8-inch guide, one 12, one 16, and one 18-inch bar, one 20 and three 22-inch sheet, and one 24-inch plate, hot, and two 24-inch sheet, cold); product, bar, band, hoop, tank and sheet iron and steel, and light T-rails; annual capacity, 30,000 gross tons. Uses producer gas in heating furnaces. A galvanizing plant is connected with the works. F. H. Buhl, President; T. D. Buhl, Vice-President; V. Preston, Secretary; David Adams, Treasurer. See Furnaces in Shenango Valley, Pennsylvania."

Q. I will ask you to turn to page 22. I offer that in evidence, and ask you to read what occurs there under the head of Sharon Iron Company, Limited, one paragraph.

A. (Reading): "Sharon Iron Company, Limited, Sharon, Mercer county. Two stacks; one, 72 x 16, built in 1865 and rebuilt in 1887; and one, 72 x 16, built in 1866 and enlarged in 1883; Whitwell stoves; fuel, coke; ore, Lake Superior; specialty, basic open-hearth pig iron; total annual capacity, 73,000 gross tons. Brand, 'Shenango.' Active in 1898. See Rolling Mills in Western Pennsylvania."

Q. What mills and furnaces did the Bellaire Steel Company have in 1898, and what mills and furnaces was it building in 1898, and what was the capacity of its several mills and furnaces?

A. The same answer as to the previous question.

Q. Then I will ask you to turn to page 170 of the same volume, which I offer in evidence, and ask you to read what occurs in the last paragraph, the Bellaire Steel Company.

A. (Reading): "Bellaire Steel Company, Bellaire, Belmont county. Rolling mill built in 1867 and put in operation in February, 1868; remodeled in 1893 and rebuilt in 1895; 3 trains of 24-inch rolls, with five driven roller and chain transfer tables; product, sheet and tinplate bars, skelp steel, bridge plates, etc.; annual capacity, 200,000 gross tons. (Cut-nail factory, containing 125 cut-nail machines, abandoned.) Bessemer steel works built in 1883-4 and rebuilt in 1897; two 10-gross-ton converters, 3 soaking pits, and a blooming mill; first blow made April 28, 1884; product, soft steel blooms, billets and slabs; annual capacity, 200,000 gross tons. Fuel, natural gas and coal. (Name changed from Bellaire Nail

Works to Bellaire Steel Company in February, 1896.) J. R. McCortney, President; A. B. Carter, Secretary and Treasurer. See Bellaire Furnaces in Miscellaneous Bituminous list in Ohio."

Q. Mr. Roberts, please state what mills and furnaces King, Gilbert & Warner Company had in 1898 and what mills and furnaces they were building in 1898, and what was the capacity of its several mills and furnaces?

A. The same answer as to the preceding question.

Q. I will ask you then to turn to page 166, which I offer in evidence, and ask you to read what occurs there about the middle, under the heading of "King, Gilbert and Warner Company."

A. (Reading):

"King, (The) Gilbert and Warner Company, Columbus, Franklin County, Built in 1894-5 and put in operation May 2, 1895; two 4½-gross-ton Bessemer steel converters, one soaking pit, one heating furnace, and 3 trains of rolls (one 32-inch reversing blooming, one 20-inch sheet bar, and one 24-inch small billet); product, steel slabs, billets, and sheet bars; annual capacity, 130,000 gross tons. Fuel, coal. R. M. Gilbert, President; J. H. King, Vice-President; D. W. Singleton, Secretary; T. J. Gilbert, Treasurer. See Furnaces in Ohio, (Miscellaneous Bituminous list)."

Q. Also page 51, beginning near the bottom, under the same head.

A. (Reading):

"King, (The) Gilbert and Warner Company, Columbus, Franklin county. Two stacks; Franklin Furnace, 75x17½, completed in November, 1873; rebuilt in 1892 and 1895; Massicks & Crooke stoves, each 65x18; fuel, Pocahontas coke; ore Lake Superior; product, Bessemer pig iron; annual capacity, 90,000 gross tons; brand, 'Franklin.' Steelton Furnace, 80x18, built in 1897 and first blown in August 12, 1897; three Massicks & Crooke stoves, each 75x19½; fuel, Pocahontas and New River coke; ore, Lake Superior; product, Bessemer pig iron; annual capacity, 120,000 gross tons, brand, 'Columbus' (Moxahala Furnace, at Moxahala, Perry county, Ohio,

one stack, 70x16½, built in 1877-8, abandoned and dismantled in 1897)."

Q. Read on, "Active in 1898."

A. (Reading):

"Active in 1898. See Rolling Mills and Steel Works in Ohio, (Interior Counties District)."

Q. What mills and furnaces did the Buhl Steel Company have in 1898, and what mills and furnaces were they building, in 1898, and what was the capacity of its several mills and furnaces?

A. The same answer.

Q. Please turn to page 133, the same volume, which I offer in evidence and ask you to read what occurs there under the head of Buhl Steel Company, Sharon, Mercer county, near the top of the page.

A. (Reading):

"Buhl Steel Company, Sharon, Mercer county. Built in 1896-7 and first put in operation in May, 1897; six 30-gross-ton basic open-hearth steel furnaces; first steel made May 24, 1897; annual capacity, 110,000 gross tons of ingots; three 4-hole soaking pits, one 35-inch blooming mill, and one 3-high 27-inch finishing mill, having connected with it a 24-inch bull-head mill; product, blooms, slabs, sheet and tinplate bars, and small billets; annual capacity, 100,000 gross tons. Fuel, producer gas. F. H. Buhl, President; Theo. D. Buhl, Vice-President; Veryl Preston, Secretary; David Adams, Treasurer."

Q. Mr. Roberts, doesn't it appear that a majority of these concerns had finishing mills connected with them; if not, just mention which ones did not?

A. The ones I have read did not.

Q. How about the others?

A. I shall have to go back over them and check them up, which I can do.

Q. I will ask you to do it because it is of importance and we want to get your knowledge on that subject.

A. Very good.

MR. SEVERANCE: You are not asking for his knowledge.

You are asking for the directory's knowledge. He has read them all to you.

THE WITNESS: Buhl had none.

By MR. DICKINSON:

Q. How about the Shenango Valley?

A. The Shenango Valley had the New Castle Nail Works.

Q. Take page 250.

A. This was not in existence. The Shenango Valley Tinplate Company was building.

Q. Before it went into the National Steel wasn't it built?

A. I cannot answer that.

Q. You do not know anything about it?

A. No.

Q. It did have nail works?

A. The Shenango Valley had the New Castle Nail Works.

Q. It had something beside furnaces, did it?

A. The Shenango Valley Steel Company?

Q. The Shenango Valley Steel Company.

A. Oh, yes; it had Bessemer works; made Bessemer steel.

Q. Turn to page 253, the Aetna-Standard.

A. Yes; it made tin and terne plates.

Q. Then on pages 169 and 170.

MR. SEVERANCE: Which is that, the one you just spoke of that had terne plates? Is that the one at Bridgeport, Ohio?

MR. DICKINSON: The Aetna.

MR. COLTON: The book will show.

THE WITNESS: The Aetna-Standard Iron and Steel Company, Bridgeport.

MR. SEVERANCE: That is at Bridgeport?

THE WITNESS: Yes. They had a tinning plant.

MR. SEVERANCE: That is the one you said went into the Tin Plate Company?

MR. COLTON: I think it did.

THE WITNESS: Yes. The finishing mills belonging to the Standard went into the other companies of the Moore group.

By MR. DICKINSON:

Q. But the question is, what product did it make; what finished products?

A. As of the year 1898 it was given in the directory that the Aetna-Standard had a mill at Bridgeport, Ohio, making tin plate.

Q. Then on pages 169 and 170?

A. It also had a mill making merchant steel bars.

Q. And any semi-finished products?

A. Oh, yes; a number of different works made billets and slabs for tin plate bars.

Q. And also sheet and tin plate bars?

A. Sheet and tin plate bars. This group of plants made the semi-finished material for the other Moore plants.

Q. Did it not make bands and light rails?

A. It did, at times.

Q. And angles and tees?

A. It names them in this list.

Q. Angles and tees and channels?

A. Those were not structural sizes; they were light sizes of angles and tees, used more for bedsteads and things like that.

Q. Mr. Roberts, of your own knowledge, have you any knowledge with regard to the products of these several concerns at that time, outside of what is shown by these statistics?

A. I know that in the matter of structural material they did not make structural material; that we did not meet them in competition.

Q. But how as to other things?

A. I cannot answer that, other than from the information I gather from this.

Q. That is all the knowledge you have now, and all that you can give us in regard to the several products of those several concerns about which I have asked you?

A. That is all the knowledge which I have at this time.

Q. Well, did you have any more knowledge about it yesterday or the day before?

A. I think I had more knowledge about it when I was actively engaged in the steel business prior to 1900 than I have now.

Q. But you have as much knowledge on the subject now as you have had within a week, haven't you?

A. Yes; more, I think.

By MR. COLTON:

Q. The Ohio Steel Company on page 163.

A. They made semi-finished material in the shape of slabs, billets, and so forth, and could make and did make at times some T rails. I know this concern; I recall it very well.

By MR. DICKINSON:

Q. Look at page 140, the Sharon.

A. Sharon Iron Company.

MR. COLTON: Limited; there may be two there.

MR. DICKINSON: At the bottom of page 140, and runs over to 141.

THE WITNESS: They made finished material, but its product was iron.

By MR. DICKINSON:

Q. Did it make T rails?

A. Light T rails; very small rails.

Q. Bands and hoops?

A. Bar, band, hoop, tank, sheet iron and steel and light T rails. It was a wrought iron establishment, containing ten single and fourteen double puddling furnaces.

MR. SEVERANCE: Which company is that?

THE WITNESS: The Sharon Iron Company, Sharon, Mercer County.

By MR. COLTON:

Q. Page 170, the Bellaire Steel Company.

MR. SEVERANCE: Is that the one that went into the Steel Hoop Company?

MR. COLTON: I think it did later, Mr. Severance; I am simply answering from my recollection.

MR. SEVERANCE: At the time it was formed.

By MR. DICKINSON:

Q. Page 170, Bellaire.

A. The finishing departments of these plants went into the finishing groups of the Moore works.

Q. At this time Bellaire was not making sheet and tin plate bars? I have come to another one now.

A. I was speaking of Sharon.

Q. No, Bellaire.

A. Now we come to page 170, Bellaire. Product, sheet and tin plate bars.

Q. And skelp?

A. Skelp; that is a semi-finished material; skelp steel, bridge plates. Bridge plates would be finished material; cut nail factory, containing 125 cut nail machines. Oh, that is abandoned.

Q. King, Gilbert & Warner, page 166.

A. Steel slabs, billets and sheet bars. That is semi-finished material. The finished material of these works was a small percentage of its pig iron and semi-finished products.

Q. You say one of them was still making pig iron products, not steel?

A. Wrought iron products.

Q. Wrought iron and not steel?

A. Not steel.

Q. Do you know how many T rails the Ohio company was capable of making, what its capacity was at that time, 1898?

A. It would depend upon whether it ran on rails or used part of its product for billets.

Q. Take its machinery; do you know what its capacity was for producing rails?

A. It would depend upon whether it used its machinery for producing billets or rails; it had to do one or the other, it could not do both.

Q. I mean machinery particularly adapted for producing rails; do you know its capacity for producing rails?

A. I can give it from the directory.

Q. Can you give it from your knowledge?

A. Not without reference to the book.

Q. Suppose you go over there.

A. What page is that?

Q. Page 163.

A. The capacity there is given as 450,000 tons of rolled products.

Q. Now, do you know whether or not any of those concerns that we have mentioned materially changed their character between 1898 and the time they were taken over by the National Steel Company?

A. That is practically coincident with the time they were taken over by the National Steel.

Q. When was the National Steel formed?

A. In 1898 or 1899.

Q. It was formed February, 1899, was it not?

A. That is my recollection; about that time.

Q. Do you know what proportion of billets and blooms made by these several concerns were manufactured by themselves, and what proportion was sold to other manufacturers?

A. What proportion, you mean, were manufactured into finished material?

Q. Yes.

MR. SEVERANCE: AS of what date?

MR. DICKINSON: At the time they were taken over by the National Steel.

By MR. DICKINSON:

Q. If so, give the proportion.

A. A larger proportion was sold than used by themselves.

Q. Was that true of the Aetna?

A. I cannot answer individually.

Q. Well, which ones that you know of individually sold a larger proportion of the billets and blooms than they used in manufacturing?

A. That I cannot answer except as a general proposition, as a whole.

Q. You cannot give any percentage as to any single one?

A. No.

Q. But as to the whole, you venture an opinion, do you?

A. I state that as a fact.

Q. Did you know the amount produced by them?

A. I did not.

Q. Do you know where they sold it?

A. In that territory, the Middle West.

Q. Were you acquainted, at that time, with the markets?

A. I was.

Q. Of these several concerns?

A. I was very familiar with the general steel market at that time.

Q. Did you know the market?

A. I was a buyer of billets myself at that time.

Q. Did you know the market where in 1898 these several concerns sold their billets and blooms?

A. I did.

Q. Did you know where they sold their finished products?

A. Generally, yes.

Q. Now, take the Aetna; what proportion of the output in billets and blooms did they sell, and where did they sell them?

A. I don't know. They were sold in the Central West or Pittsburgh District. As to the proportion, I do not know.

Q. All of these concerns sold their billets and blooms, did they, in the Central West and the Pittsburgh District?

A. Those that had a surplus above their own requirements, yes.

Q. And you cannot name a single one that had?

A. A surplus?

Q. Yes.

A. Not individually; no.

Q. As I understand you, Mr. Roberts, you are not able to name a single one of the constituents of the National Steel Company with respect to which you can state where in 1898 that particular company sold its billets and blooms, and the percentage of its output in billets and blooms which it did sell?

A. In figures, no.

Q. Can you approximate it?

A. In figures, no.

Q. Mr. Roberts, you testified on your direct examination, page 9179, as follows:

“The other concerns like the National Steel were composed largely of blast furnaces that had lost their custom of

pig iron and who found themselves compelled to produce instead of pig iron, billets and blooms for sale to those who had formerly used wrought iron."

Now, I want you to name which of the concerns that went into the National Steel Company had largely blast furnaces that had lost their custom for pig iron and found themselves compelled to produce instead of pig iron, billets and blooms for sale to those who had formerly used wrought iron?

A. I would refer to the extracts which I have read here from the directory of the American Steel & Iron Association for the year 1898 in full confirmation of the statement which you have just read.

Q. Without that I wish you to state which of the concerns that went into the National Steel Company were composed largely of blast furnaces that had lost their custom for pig iron and found themselves compelled to produce instead of pig iron, billets and blooms for sale to those who had formerly used wrought iron?

A. I will make the same answer to that as to the previous question.

Q. Is that the only answer you can make?

A. That is the only answer I can give you, sir.

Q. On your general knowledge of the business and on your experience in it, and on your general knowledge of products and sales acquired throughout the period of time from 1895 down to the time of the formation of the National Steel Company, can you state what concerns composed principally of blast furnaces went into the National Steel Company, which had lost their custom for pig iron and found themselves compelled to produce instead of pig iron, billets and blooms for sale to those who had formerly used wrought iron?

MR. SEVERANCE: I think I will make an objection that that is the third time that question has been asked in substantially the same language. I see no object in having it asked so many times. He has answered it twice in the same way.

MR. DICKINSON: Then it would be no trouble for him to answer it again. I think it is a little different.

MR. SEVERANCE: It is wasting a great deal of time.

By MR. DICKINSON :

Q. Will you answer it, Mr. Roberts?

A. I should make the same answer as to the previous question.

Q. That is the only answer you can make?

A. The only answer that I can give you in detail.

Q. When did you examine Swank's Directory on this subject?

A. For details I corroborated my own general knowledge probably a year and a half ago. Since then I have not examined it until this afternoon, when I read the extracts which I read. All those connected with the iron and steel trade during the period you have referred to, from 1895 to 1898, were fully alive to the discussion, the very general discussion which went on at that time, as to these very changes to which I have referred. It was not any individual opinion of my own, but a very vivid recollection of the consensus of opinion among engineers as of that date.

Q. So your answer, then, was based not upon your own recollection of the knowledge you had of these several concerns at the time they went into the National Steel Company, but from the consensus of opinions of engineers, was it?

A. No. No; my own opinion coincided with theirs.

Q. Just state, then, on what you base this statement that I have just read to you.

MR. SEVERANCE: Will you kindly read the statement to him, so as he may see what it is?

MR. DICKINSON: Yes.

By MR. DICKINSON :

Q. The statement is: "The other concerns like the National Steel were composed largely of blast furnaces that had lost their custom for pig iron and who found themselves compelled to produce instead of pig iron, billets and blooms for sale to those who had formerly used wrought iron."

A. My general knowledge of the conditions which existed at that period.

Q. But that general knowledge did not enable you, did it, to mention the name of a single concern that went into the

National Steel, without looking at Swank's Directory?

A. It certainly did not; and it would be impossible for it to do so.

Q. And it did not enable you to give the products of a single one of these companies?

A. No, no; I am not a walking directory. I cannot do that.

Q. And it did not give you the ability to name the percentages of these products or where they sold them?

A. No.

MR. SEVERANCE: Just a moment, Mr. Roberts. I must object to this argument. Counsel has asked these same questions over and over again, and they have been answered frankly by Mr. Roberts, and I object, now, to a series of arguments in the form of questions.

By MR. DICKINSON:

Q. Can you name a single concern that went into the National Steel Company that, at the time it went into the National Steel Company, was selling billets and blooms to concerns that formerly used wrought iron? If so, state what concerns that formerly used wrought iron they sold to, respectively.

MR. SEVERANCE: I object to that as a repetition. The question has been answered repeatedly.

MR. DICKINSON: That question has never been asked.

MR. SEVERANCE: The first part of it has, and that involves the whole of it.

MR. DICKINSON: This is another part.

By MR. DICKINSON:

Q. Can you answer that, Mr. Roberts?

A. The Ohio Steel Company was selling billets and blooms to concerns which were previously manufacturers of wrought iron. As to the details of their individual customers and names, I have no knowledge at this time.

Q. You cannot give the name of a single concern to which it was selling?

A. I never had access to their books, no.

Q. And you cannot state, of your own knowledge, that they were selling to such concerns?

A. I know that they were selling to such concerns.

Q. Just tell us, then, what you know about it; who it was they sold to, and when and what.

A. No; I have no further details than that.

Q. You spoke of the American Steel & Wire Company. What did you mean; which American Steel & Wire Company?

A. In what connection did I speak of it?

Q. You spoke of the Tin Plate, Sheet Steel, Hoop and American Steel & Wire—that they were composed of certain concerns. Which American Steel & Wire Company were you talking about?

A. The American Steel & Wire Company of New Jersey.

Q. What concerns, at its formation, were taken over by or went under the control of the American Steel & Wire Company of New Jersey?

A. I am unable to give their names in detail. It is a matter of public record.

Q. Can you give any of them?

A. No, sir.

Q. At the time they were taken over, did you have any intimate knowledge of the financial condition of these several concerns?

A. None whatever.

Q. Do you know as to whether they were solvent or insolvent, or what the capital of each was, or what their financial ability was?

A. I never saw their books.

Q. Do you know individually what they were severally capitalized at?

A. A number of them were not incorporated companies. They were partnerships.

Q. Those that were incorporated, do you know what they were capitalized at?

A. Not from memory, no.

Q. Can you approximate it as to any of them?

A. No, sir.

Q. Those that were not incorporated and were partner-

ships, do you know what capital they severally had in their business?

A. I have no idea whatever.

Q. Can you approximate it?

A. Not in any manner or respect.

Q. Did you ever know?

A. That I do not know.

Q. Do you know what their standing was severally in the commercial world?

A. Some good, some bad and some indifferent.

Q. Do you know which were bad, can you name any of them?

A. No.

Q. Can you name any of those that were indifferent?

A. No.

Q. Speaking generally, were they large concerns or small concerns?

A. They were of varying sizes; for instance, the Washburn & Moen were a very large concern. There were a great number of very small ones.

Q. There were a great number of very small ones and you do not know anything about their financial condition, you have said?

A. I do not know of their financial condition in detail.

Q. Do you know anything about it, in detail or not?

A. No; any more than I said before, some were good, some were bad and some indifferent.

Q. And you cannot say which were good and which were bad?

A. No.

Q. How do you know some were bad and some good if you do not know the names?

A. Simply from the credit which they had in their business and the way they were looked upon by the trade in general.

Q. Were you in the wire and steel business?

A. No; I was not. I was a seller of billets to a certain extent.

Q. Can you name any of them at the time you sold billets

that went into that company that were short of capital and credit?

A. I could not in detail at this time, no.

Q. Which of those did you sell billets to?

A. Our billets in those days were largely sold through brokers, and we had no knowledge of their ultimate destination.

Q. So that you cannot say, then, to whom you sold, of those companies?

A. No, I could not individually name them.

Q. You say you sold through brokers; do you know to whom they sold?

A. I do not.

Q. Did you get your money through the brokers?

A. We did.

Q. You dealt with them?

A. We sold through brokers.

Q. You sold through the brokers and they sold to the other people?

A. Yes.

Q. Can you state the concerns, the several companies, that went into the Consolidated Steel Wire Company?

A. I cannot.

Q. Can you state what their respective capacities were?

A. I cannot.

Q. Or the products manufactured by each?

A. I cannot. It is all of record.

Q. Take the American Steel Hoop Company; can you give the names of the several companies that went into it at the time it was formed?

A. No.

Q. Can you give their respective capitals?

A. No.

Q. Capacity or product?

A. No.

Q. Or what products they made?

A. No, excepting in a general way it was various forms of hoops, bands, cotton ties and so forth. It was a class of

product peculiar to itself. Some of them made sheet steel, light sheets and skelp iron.

Q. Anything else?

A. And some few small bars. I will correct that by saying some bars and omitting the word few; I mean a small range of sizes.

Q. What was that?

A. Small bars.

Q. What concern was that?

A. Small bars as distinguished from heavy bars.

Q. Can you give any information, or have you any knowledge or information as to the financial standing or capitalization or credit or ability of any of those concerns that went into the American Steel Hoop Company when it was formed?

A. Not in detail.

Q. Can you give it at all, and if so, state what you can give.

A. My answer would be the same as I have always given in regard to those concerns entering into the other consolidations.

Q. Now, on page 9179 you testified as follows, as to tin plate. I think you afterwards made a correction, but I will read it as it appears here:

“The Tin Plate, the Sheet Steel, the Hoop, and the American Steel & Wire Company were composed of concerns who individually were neither able for want of capital, or amount of output to change from wrought iron or to manufacture steel in sufficient quantities to make it commercially profitable to do so.”

Please state those concerns that went either into the Sheet Steel or the Tin Plate or the Hoop, or the American Steel & Wire, which at that time were individually neither able for want of capital or amount of output to change from wrought iron or to manufacture steel in sufficient quantities to make it commercially profitable to do so.

A. My statement is a general one, and like all general statements might be subject to one or two exceptions, but as a general statement it holds good.

Q. I will not deal with the exceptions, but I will deal with the whole number, and I will ask you to give the names of

those that answered to that description. State which ones they were.

A. The only answer I can give to that is that, taking a detailed list of those concerns which entered into those consolidations and examining their output as given by themselves in the directory of the Iron & Steel Association, you can then see which were unable, by reason of their size and output, to successfully manufacture steel from a commercial standpoint.

Q. Could you, without any statistics of that sort, give the financial condition or what the capital of those several concerns was?

A. The financial condition would not enter into the matter. Their output was of insufficient quantity to consume the product of a steel making establishment individually.

Q. Capital cut no figure, then?

A. In some cases it did and in some cases it may not have.

Q. Just state as to which of them capital did cut a figure with and as to which it did not?

A. I am unable to give you that in definite figures.

Q. Can you name a single concern that went into either one of those companies that was unable to command the capital to change from wrought iron or to manufacture steel in sufficient quantities to make it commercially profitable to do so?

A. As a general proposition, I would name all of them. There was, as I say, probably an exception here and there to that, but no concern whose output was insufficient to absorb the product of a steel making plant would have had sufficient capital to enter into the manufacture of steel.

Q. You cannot name a single one whose financial condition you knew?

A. Not any figures, no.

Q. Can you approximate it?

A. I cannot approximate it except by the statement that I say that any one of those concerns that had insufficient output to operate successfully a steel making plant would not have had sufficient capital at its command to have gone into a modern steel making proposition.

Q. Now, Mr. Roberts, you have stated here as a broad

proposition that the Sheet Steel, the Hoop, the American Steel & Wire, were composed of concerns who individually were neither able, for want of capital or amount of output, to change from wrought iron or to manufacture steel in sufficient quantities to make it commercially profitable to do so. You are asked now to name a single one with whose capital or financial condition you were acquainted and which was in the condition that you there describe.

A. You will note in the reading of it I did not say that those reasons applied to all. I said those were reasons.

Q. You said that the Tin Plate, the Sheet Steel, the Hoop and the American Steel & Wire were composed of concerns who individually, and you made no explanation.

A. Then read on.

Q. I will read. I have read it several times. "The Tin Plate, the Sheet Steel, the Hoop, the American Steel & Wire were composed of concerns who individually were neither able, for want of capital or amount of output, to change from wrought iron."

A. Or want of capital. It does not apply equally to all. That is an alternative proposition.

Q. You did not let me finish.

A. Excuse me. The word "or" was what I wanted to call your attention to.

Q. "To change from wrought iron or to manufacture steel in sufficient quantities to make it commercially profitable to do so."

Now, what do you say?

A. I say the word "or"—it is an alternative.

Q. Some of them could not do so for the want of capital?

A. Right.

Q. And some could not do it on account of the amount of output?

A. Right.

Q. Name those that could not do it for the want of capital.

A. No, sir.

Q. Can you do it?

A. I cannot do it.

Q. Name those that could not do it on account of the amount of output.

A. Not in detail, I cannot do it.

Q. And you cannot give us any further information?

A. I can give it to you in output by referring to individual concerns in the Iron and Steel Directory; not otherwise.

Q. Did you know when you made that statement what the output was?

A. I had gone over it and examined the output.

Q. Could you have stated the output when you made that statement of a single one of those concerns?

A. That statement was made as a result of my general knowledge and examination, checking up that general knowledge individually and in detail from the Directory of the American Iron and Steel Association. That was done about a year and a half ago.

Q. When you made that statement, Mr. Roberts, a day or two ago——

A. (Interposing) That statement was generally a conclusion which I arrived at from such examination.

Q. And was it based on your knowledge that you had yourself of affairs of any of these companies?

A. Yes, the general knowledge I had of these affairs at that period, about 1898.

Q. What do you mean by general knowledge?

A. I think that defines it pretty clearly, the term "general knowledge."

Q. I would like to hear you, because I want to ask you some questions about it.

A. Well, anyone who was in the iron and steel business as of that period, buying and selling, knowing markets, knowing the concerns that were operating, looking out at all times where he could add to his varied lines of products, had a general knowledge of the situation and of the developments which were taking place in that industry. As to whether he had a detailed knowledge of the dollars and cents invested in every concern or detail as to the exact tonnage of their output in tons, why, I say, no; no man living had such a comprehensive

knowledge as that. I distinguished detailed knowledge in that respect from general knowledge.

Q. Did you have any personal knowledge of the financial condition of a single one of these companies when you made this statement the other day? If so, state which company it was and what its financial condition was.

A. I say, generally, that a concern, from a general knowledge, would not be in a financial position to enter the steel business if its tonnage was such that it would not warrant it to operate a steel manufacturing plant.

Q. Now, you put it on tonnages, do you?

A. Tonnage is one consideration, yes.

Q. Now, can you give the tonnage of a single one of these concerns at the time it went in?

A. Now?

Q. Now, yes.

A. No, I cannot do that.

Q. You said tonnage was one consideration. What were the other considerations?

A. Financial ability.

Q. Financial ability?

A. Yes.

Q. And you cannot give either the tonnage or the financial ability of a single one of these concerns at the time they went in, can you?

A. Not in detail, nor never could.

Q. Can you give any information about it?

A. You can give hearsay; you can give from general knowledge, but if you are going into detail, you manifestly cannot get such knowledge as you are asking for without an examination of their books. I never examined any of their books; no, sir.

Q. Did you know what any of them owed?

A. Of course I did not.

Q. Did you know how much capital they had in the business?

A. I did not, in dollars and cents.

Q. Did you know anything about it, then?

A. Not that character of knowledge, no.

Q. But still you knew enough, did you, to say they did not have capital or output enough?

A. I do.

Q. But you cannot give any more detailed information than that?

A. Of that statement I am just as positive as I am that I am sitting in this chair.

Q. And are you as positive of your other testimony in this case as you are of that?

A. I believe I am quite positive of the correctness of my testimony so far, yes.

Q. Now, Mr. Roberts, how many of the concerns that went into the Sheet Steel Company or the Hoop Company or the American Steel & Wire Company had to change from wrought iron at or near the time at which those respective companies were formed?

A. None of them that I know. The change had already occurred and forced these concerns to purchase their semi-finished steel from which their finished product was formed in the open market; and it was this lack of control of their own raw material and the impossibility of making for each concern a commercially successful steel plant that forced these consolidations, and concerning which I have already testified.

Q. You say, then, at or about the time that the constituents of these several companies were taken over none of them were in a position where they had to change from wrought iron to the manufacture of steel?

A. None. The change had already been made.

Q. How long before they severally went into these several companies, respectively, had the change been made from wrought iron to manufacturing steel?

A. There had been a change continuing back probably as far as the year 1885 or 1886 or 1887. There was no one definite date when the change occurred, but it was a continuing change which had taken place over a number of years.

Q. Then, for wire companies, had it taken place as early as 1895?

A. The change from wrought iron to steel?

Q. Yes.

A. Oh, for wire longer than that. Wire is essentially a creature of steel. Iron wire played no such part in the industry as the wire business did after the introduction of steel. Steel made wire possible.

(Whereupon an adjournment was taken until to-morrow, June 6, 1913, at 10:30 o'clock a. m.)

SEVENTY-FIRST DAY.

EMPIRE BUILDING,
NEW YORK CITY,

FRIDAY, JUNE 6, 1913.

Before SPECIAL EXAMINER HENRY P. BROWN.

Present on behalf of the United States, MR. DICKINSON
and MR. COLTON.

Present on behalf of the defendants, MR. SEVERANCE, MR.
REED and MR. BOLLING.

PERCIVAL ROBERTS, JR.,

the witness under examination at the taking of adjournment,
resumed the stand for further

CROSS-EXAMINATION (Continued),

By MR. DICKINSON:

Q. Mr. Roberts, what was the price of rails in November,
1898, when the rail pool was formed by Messrs. Gary, Frick
and Carnegie?

MR. SEVERANCE: I object to that, as I do not recall the tes-
timony furnishes any foundation for the question in the form
in which it is stated; therefore I object to it.

A. I do not recall the price.

Q. How long after November, 1898, was it before the price
of rails was advanced to \$33?

A. I do not recall the exact time.

Q. Can you approximate it?

A. No, I could not.

Q. Do you remember that it was advanced to \$33 as a fact?

A. I do recall that rails sold as high as \$32 or \$33.

Q. At what time?

A. In 1898 or 1899.

Q. How long did it continue at \$32 or \$33?

A. I do not recall.

Q. Do you know whether it was reduced to \$26 after it reached \$32 or \$33, and if so at what time?

A. Rails did sell later at \$26 a ton, but I cannot say now the exact date.

Q. Can you give the year?

A. I think rails were selling at \$26 a ton at the time of the formation of the United States Steel Corporation; that would be in the spring of 1901.

Q. And how long had they been at \$26 a ton?

A. I do not recall.

Q. How long did they remain at \$26 after the formation of the Corporation?

A. I think a very short time; maybe one or two months.

Q. Do you know of any rails that ever sold, Standard Bessemer rails, as low as \$26 after the formation of the Corporation; if so, state what your knowledge is on that subject?

A. I could give no specific contracts; no.

Q. Can you give any information on the subject?

A. No, other than that the price was \$26, I think, for a month or two after the formation of the Steel Corporation.

Q. And after that, what did it become?

A. It became \$28 a ton.

Q. Did it ever go back after that to \$26?

A. No. They have continued at that price until the present day.

Q. You spoke of Mr. Cassatt, who was president of the Pennsylvania Railroad Company about the year 1900, inaugurating a system on the Pennsylvania Railroad Company of making his purchases yearly at about the end of each calendar year. What was the price at which Mr. Cassatt at the time you speak of purchased rails, what was the price at which he purchased rails?

A. I do not know.

Q. You spoke of making his purchases yearly from the time that he inaugurated that system which you say was about the year 1900. Was the price uniform at which he purchased all of his rails for the year 1900?

A. I cannot answer that question for that year.

Q. When did he make his purchases for the year 1901; what months did he make the contracts?

A. These details I am unable to give. I would call your attention to the fact that at that time I had no personal connection with the Pennsylvania Railroad as a director, and what I know of those early years prior to my directorship are simply such reports as I have had subsequently from the officers of the company.

Q. Then your testimony that you have given in regard to rails and prices and the system that prevailed at that time was not based upon your own knowledge acquired as of that time, but on information that you have received from others?

A. Some was. Some was naturally second hand.

Q. Now, then, please tell us what was first hand; for instance, in regard to Mr. Cassatt about the year 1900 inaugurating a system for the Pennsylvania Railroad, was that knowledge first-hand or second-hand?

A. That knowledge came directly to me from the records of the Pennsylvania Railroad Company since I have been a director.

Q. What records?

A. And especially since I have been the Chairman of the Supplies Committee of that company?

Q. When did you become Chairman of the Supplies Committee of that company?

A. About 1908.

Q. About 1908?

A. Yes.

Q. Did the knowledge that you acquired as Chairman of the Supplies Committee in 1908 give you any information as to what was done in 1900?

A. It did.

Q. How; just explain that, will you?

A. By having knowledge of the methods pursued in the letting of contracts for rails.

Q. Therefore, from the method that was pursued in 1908, when you were Chairman of the Supplies Committee, you are from that testifying, are you or not, as to the method that was pursued in 1900?

A. No; I am testifying to the method pursued in 1900 from the historical records which are preserved in the various departments of the Pennsylvania Railroad.

Q. You yourself had no knowledge at that time in the year 1900, did you?

A. Yes.

Q. What position did you hold then with the Pennsylvania Railroad Company?

A. I did not hold any.

Q. And had no connection with it as a director?

A. It was a matter of public notoriety at the time and was announced in the public press and in the trade journals.

Q. Then your information is based, is it, upon mere matters of public notoriety and knowledge you got from trade journals?

A. As of the year 1900, yes; confirmed later by positive knowledge since I have been a director of the Pennsylvania Railroad.

Q. What positive knowledge have you acquired since you have been a director of the Pennsylvania Railroad that confirmed anything as to facts that transpired in 1900? State exactly what it is.

A. Examination of their records.

Q. You are speaking, then, from records of the road?

A. I am.

Q. Not from any knowledge which you yourself had of the transactions when they took place?

A. Confirming the general knowledge which I had, disseminated through the public press.

Q. Well, then, all of the knowledge upon which you base that testimony is what you got from the public press and what you got from a subsequent examination of the records of the Pennsylvania Railroad as of that period?

A. And in conversation with the various officers who actually carried on the transactions.

Q. But did you have any other knowledge except what you got from conversation with these various officers, from the subsequent examination of the records of the Pennsylvania Railroad and such contemporaneous knowledge as you acquired through the public press?

A. I think that is complete knowledge regarding a transaction.

Q. That completes your knowledge, does it?

A. That is all my knowledge.

MR. DICKINSON: Then we object to the testimony that he gave upon that as being hearsay and incompetent, and the evidence based upon documents and records of the Pennsylvania Railroad we object to on the ground that such documents and records are themselves the best evidence and that Mr. Roberts' testimony from them is secondary testimony and incompetent.

THE WITNESS: And I think in addition to that I would also say that during the summer of 1901 or 1902, in a conversation I had with Mr. Cassatt, he discussed the subject of steel rails.

MR. DICKINSON: I object to your stating any conversation with Mr. Cassatt; I am not calling for it and I object to it as incompetent.

THE WITNESS: You asked for all my knowledge.

MR. SEVERANCE: You asked for knowledge, and he should be allowed to complete his answer.

MR. DICKINSON: I asked for his sources of knowledge.

THE WITNESS: I am giving as one of the sources Mr. A. J. Cassatt, president of the road.

MR. DICKINSON: I object to that answer.

MR. SEVERANCE: Finish your answer.

By MR. DICKINSON:

Q. You were not at that time connected with the corporation?

A. I was not at that time a director of the corporation. That is, the Pennsylvania Railroad, I was not connected with.

MR. SEVERANCE: Which corporation do you mean?

MR. DICKINSON: I mean the Pennsylvania Railroad.

THE WITNESS: No.

By MR. DICKINSON:

Q. What changes were made in the laws of the United States during 1900 which restricted, if there were such laws,

the opportunities that had existed prior to 1900 to bargain with the railroad for transportation, which was at no definite price?

A. I have not qualified as an expert in the law, sir. I really do not know.

Q. Can you state what governmental regulation changed the law in that respect as between the years subsequent to 1900 and the years prior thereto?

A. Concerning the law, I would not express any opinion.

Q. How about governmental regulations?

A. The scope and power of the Interstate Commerce Commission as about that time became much more far reaching than it was formerly or prior to that year, and I think it is a positive fact that since about that date the charges for transportation have not been subjected to any character of rebate whatsoever. They are entirely in the control of governmental regulation. The situation subsequent to the year 1900 is different from that prior to 1900. I speak generally, not wishing to name any definite month or any definite date.

Q. Do you mean by that that in 1900 and for a period prior thereto it was lawful under the laws of the United States for railroads to give rebates or to haul freight for people who were substantially in the same conditions at different rates?

A. I express no opinion as to its lawfulness or unlawfulness.

Q. What are you expressing an opinion about?

A. That the same was done.

Q. Are you expressing an opinion as to whether or not after 1900 the same was not done?

A. I think I am safe and correct in saying that it has not been done.

Q. Mr. Roberts, what process was used by the Standard Company in making or in attempts to make seamless tubes prior to the taking over of the Shelby Company by the National Tube, and under what patents were these processes? I am asking you now to answer as of your own knowledge.

A. The principal machinery and that in reference to which there was litigation between the Shelby and the Standard, was a method of piercing the blanks from which the seamless steel

tubes were produced. The validity of that patent was later determined in a suit between the Shelby Tube Company and a concern whose name I do not just recall, and the opinion given in favor of the Shelby about 1905, I think.

Q. You say that patent. Was the Standard operating only under one kind of patent in its plans or efforts to produce seamless tubes?

A. I cannot tell you the exact number of patents, but that was the vital patent of the process and the one which was in dispute between the Shelby and the Standard.

Q. Do you know the name of the patentee or the number of the patent?

A. There were two former employes of the company who had left the Shelby and had started the Standard, and I do not recall their names for the moment, but they had made these piercing machines which the Shelby claimed infringed their patent on the piercing machine, and the litigation was in regard to that. It was the foundation of the process. Since that time the machinery used by the Shelby prior to its acquisition has been established in all the plants of the National Tube making seamless tubes. It was a vital patent.

MR. DICKINSON: Will you read my question?

(The question was read by the stenographer, as follows:)

“Q. You say that patent. Was the Standard operating only under one kind of patent in its plans or efforts to produce seamless tubes?”

By MR. DICKINSON:

Q. Now, you have said a good deal. I do not think you have answered my question.

A. I said there might have been more.

Q. And I am trying to make your examination short, but I cannot do it unless you respond to my questions.

A. Read the question again and let me see if I can answer.

(The question was again repeated as above recorded.)

MR. SEVERANCE: In starting your question you say that patent and then follow it up with a question as to the Standard. You understand he has been testifying as to a patent owned by the Shelby and not by the Standard, which it was

claimed the Standard device infringed. You may have misunderstood him.

MR. DICKINSON: No.

MR. SEVERANCE: The patent was not the Standard patent. It was the Shelby patent.

MR. DICKINSON: Read the question.

(The question was again repeated as above recorded.)

THE WITNESS: The total number of patents I am unable to state. I have in mind the principal patent controlling the operations of making seamless pipe.

By MR. DICKINSON:

Q. Do you know whether or not the Standard Company was operating entirely in manufacturing or efforts to manufacture seamless tubes under what came within that patent, or whether they had or were attempting to use patents or processes which were different from that patent? Do you know anything about it yourself?

A. I know that the piercing machinery was absolutely essential to the success of the process, and that that piercing machinery was an infringement of the Shelby patents.

Q. Did you ever see the patent?

A. Yes, I glanced over the patent.

Q. You glanced over the patent when?

A. Lately.

Q. Where is it?

A. I cannot tell you where it is now.

Q. Will you produce it, please?

A. I will be glad to if I can find it, yes.

Q. Do you say that the Standard had no other patents, and were operating under no other patents than that?

A. No.

Q. You do not say that?

A. No, I say no other patents for the piercing machinery.

Q. But I want to know whether you mean to say that you know that they were not operating under any patents by which they were making or attempting to make seamless tubes other than the one which the Shelby was contesting?

A. They were operating under no other patent for that

portion of the process which is known as piercing blanks, and upon which the subsequent operations of making seamless tubes depended.

Q. Were you at their works before they were taken up?

A. I was not.

Q. Were you at their works before they were taken over by the National Tube?

A. I had never been in their works.

Q. Did you ever see their machinery?

A. I never saw their machinery.

Q. Never saw it operate?

A. Never saw it operate.

Q. You don't know what kind of machinery they had?

A. I do not.

Q. Do you know of your own knowledge, Mr. Roberts, that the National Tube Company did not have a process for manufacturing seamless tubes other than the process that was used by the Shelby Tube Company?

A. I know only what was reported to the executive committee of the board of directors of the United States Steel Corporation at the time of the purchase of the Shelby Tube Company by the president of the United States Steel Corporation.

Q. Is that all you know about it?

A. That is all I know about it.

MR. DICKINSON: Then we object to your testimony as the report is the best evidence and this is secondary, and his statements heretofore made in regard to these conflicts are based on hearsay.

THE WITNESS: I would also refer to the decisions of the courts in regard to the Shelby patent.

MR. SEVERANCE: We will take judicial notice of that. We do not need to refer to them.

MR. DICKINSON: Mr. Roberts is quite an authority, not only upon the law, but even upon legal ethics.

THE WITNESS: I disclaim being an authority upon the law.

By MR. DICKINSON:

Q. Now, Mr. Roberts, after the Shelby Company was taken

over, what changes, if any, were made in the machinery of the Standard Company for making seamless tubes?

A. I cannot give you that information, sir; I left the corporation soon after the Shelby Tube Company was taken over.

Q. After the Shelby was taken over, or at any time prior thereto, did you have any personal knowledge of the machinery that had been used by the Standard Company under the National Tube?

A. Only such reports as came to the executive committee of the board of directors of the Steel Corporation.

Q. Mr. Roberts, don't you know that with some slight changes and adaptations that the machinery used by the Standard or under the Standard process was continued to be used by the National in making tubes substantially like the Shelby had been making them?

A. I understand that it was necessary for the National Tube to use the piercing machine for its work controlled by the Shelby patent, and that that is the fact today.

Q. But what did they do, what did the National Tube do with the machinery that it was using at that time when it took over—that it had been using when it took over the Shelby? I am asking you if you know of your own knowledge.

A. It probably continued to use it, as far as I know.

Q. They continued to use it, so far as you know?

A. They did, and they, in taking over the Shelby Tube, relieved themselves of the litigation which they had assumed in the purchase of the Standard Tube.

Q. How long, as far as you know, did they continue to use the machinery that had been used before they took over the Shelby? I mean the machinery of the Standard?

A. I think they are still using it, except this one machine which is known as the piercing machine, which is controlled by the Shelby patent.

Q. That is one machine among a number; if the patent inhibition was removed, do you know whether or not after that difficulty was taken away whether they continued to use that machinery?

A. No, they used the Shelby, the machinery covered by the Shelby patent, which was then in litigation.

Q. Was the other machinery like it if it was in conflict with the patent?

A. The other machinery had performed different steps in the process, and this was simply a machine with which they pierced the blanks in which the tubes were made.

Q. Did I understand you to say the contest was as to whether or not the National Tube in using that piercing machinery was conflicting with the Shelby patent?

A. That is right.

Q. I am asking you after that controversy was removed by litigation whether then they continued to use this machinery in the Standard or not?

A. No, they built machinery under the Shelby patent and introduced it into all their seamless works.

Q. Now, do you know of your own knowledge that they did not use——

A. (interposing) Only what is reported to me.

Q. Only what is reported to you?

A. That is all, sir.

Q. I am asking you if you know of your own knowledge whether or not——

A. (interposing) Only by report.

Q. (continuing) Whether or not the machinery that had been used by the Standard for making tubes, and especially that part which has been made for piercing tubes was, after this difficulty or litigation was removed, continued to be used or not. Do you know anything about that?

A. The machinery used after the acquirement of the Shelby Tube Company, so far as the piercing of blanks was concerned, was changed to the machinery covered by the Shelby patent.

Q. Then the machines were different, were they?

A. The piercing machinery in one of the works was different. Of course, that machinery which was used by the Standard, bear in mind the National Tube before the acquirement of the Standard was also attempting to make seamless tubes. Now, the piercing machine——

Q. (interposing) Was that under the patent that was in conflict with the Shelby patent?

A. I do not so understand. These two men who had left the Shelby and started the Standard built a piercing machine which the Shelby claimed infringed their piercing machine and there was litigation existing between the Shelby and the Standard at the time of the acquirement of the Standard by the National Tube. The National Tube assumed that litigation and it was pending.

Q. Now, you have told us that pretty often; how long had it been pending?

A. I could not tell you the date of the suit, except it was before the date of the acquirement by the National Tube.

Q. You have stated that the National Tube, before it acquired the Standard, was trying to make seamless tubes and were not commercially successful. Were you ever at their works?

A. I never was.

Q. Have you any personal knowledge of it?

A. I am giving you reports that came to me as a member of the executive committee of the United States Steel Corporation.

Q. That was before they acquired the Standard.

A. After they acquired the Standard.

Q. These reports came after they acquired the Standard?

A. After they acquired the Standard.

MR. DICKINSON: Then I object to his testimony regarding these reports, the reports being the best evidence, as secondary evidence.

THE WITNESS: The reports were verbal and not in writing.

By MR. DICKINSON:

Q. Don't you know that at the time the Standard was acquired the National Tube Company was making seamless tubes and regarded the Standard as a competitor and the Shelby as a competitor, in seamless tubes?

A. Undoubtedly to a greater or less extent. The percentage of seamless tubes being made by the National Tube Company at the time of its acquirement of the Standard, was an extremely small percentage, and was in an experimental stage.

Q. It was making lap-welded tubes, wasn't it?

A. It was, and that had always been its business.

Q. To a very large extent?

A. Lap and butt-welded pipe was its entire business.

Q. Not its entire business, was it?

A. Except this small percentage of seamless tubes which I spoke of.

Q. What percentage of its business at the time it took over the Standard was in seamless tubes?

A. So small that it would not be appreciable.

Q. At the time it took over the Shelby, what portion of its output was seamless tubes?

A. I cannot give the exact figure, but it was considerably larger than it was at the time it took over the Standard.

Q. The lap-welded tubes were in competition, were they not, with the seamless tubes?

A. No.

Q. Do you mean to say that they did not serve the same purposes at all?

A. They are not in competition; never were and never have been.

Q. Do you mean to say that some people who were in the market to buy tubes for their purposes did not consider the relative price of the two and determine which they would take, and that they served the same general purpose?

A. No, they never did.

MR. SEVERANCE: That is a double question; did you answer both parts of it? You say they never served the same purpose?

THE WITNESS: I say they do not serve the same purpose. Of course, you can substitute at any time a lap-welded tube with a seamless tube, but you cannot use for many purposes a lap-welded tube for which a seamless tube is used. Seamless tubes were principally used and are used for very high pressures, pressures that are too high, hydraulic pressures that are too high for a lap-welded tube to withstand. A seamless tube is a more expensive tube to make, and as I say, can be substituted for any purpose that a lap-welded tube can be used for, but *vice versa* does not hold good.

Q. At the time the Shelby Tube Company was taken over by the National Tube Company, state for what purposes lap-welded tubes were used?

A. For all purposes for which tubes were used, or pipes were used, of the sizes that were made of lap-welded tubes, for withstanding pressures which were not too high for their resisting capacity.

Q. Particularize, just exactly what do you mean?

A. Steam, water, gas and air.

Q. Were seamless tubes used at that time for steam, water, gas and air?

A. No, only when pressures became so high that a lap-welded tube had not sufficient resistance to withstand it.

Q. Do you mean to say seamless tubes were not sold at that time at all in the market except for demand to resist pressure that lap-welded tubes would not resist?

A. Excepting for one purpose, and that was for locomotive and stationary boiler tubes.

Q. You say they were both used for that purpose?

A. They were both used for that purpose.

Q. Then they were in competition for that purpose?

A. To a certain extent, yes.

Q. To the extent to which people might buy one or the other and look to the question of price, were they not?

A. Yes; a customer had his option whether he would use a seamless tube or a lap-welded tube.

Q. When you said a while ago that they were not competitors at all what did you mean, when you now say that they did compete for that purpose?

A. I said that a seamless tube could be used wherever a lap-welded tube was used, but I said there were a great many purposes where lap-welded tubes could not be used where a seamless tube could.

Q. Didn't some people who could use either buy one or the other, according to their preference, and according to the question of price?

A. That is what I have said could be done at any time.

Q. In that sense, then, they were competitors, were they?

A. As I said before, the seamless tube could be used for

any purpose that the lap-welded was used for, but that the lap-welded could not be used for all purposes that a seamless tube could be used for.

Q. To the extent, then, to which you have defined that, they were competitors, were they?

A. One had universal use; the other had limited use.

Q. To the extent, then, that a lap-welded tube could be used for the same purpose that a seamless tube could be used for, they were competitors, were they not?

MR. SEVERANCE: Just a moment; I object to that as a mere conclusion. He has stated the fact. The Court will draw conclusions from that as to whether they are competitors or not.

MR. DICKINSON: I would like to have him answer that.

MR. COLTON: He has been put forth as an expert on the subject.

THE WITNESS: Competitors in use, but not competitors in price.

By MR. DICKINSON:

Q. Do you state positively that they were not competitors in price; do you know that of your own knowledge?

A. Yes, unless a person disregarded the higher range of values for one than the other.

Q. Who was Mr. E. C. Converse in the year 1900?

A. Mr. E. C. Converse.

Q. I know, but I mean what position did he hold?

A. I think he was president——

Q. Some people change their names. I did not mean, however, that he had. Was he not president of the National Tube Company?

A. He was the president of the National Tube Company; whether as of that year or not, I do not recall.

Q. Was he experienced and versed in the tube business?

A. Yes, I think so.

Q. Had he been engaged in the control of concerns manufacturing tubes?

A. Yes.

Q. He was then at the head of the largest tube concern in the United States, was he not?

A. When he was president of the National Tube Company he was, yes.

Q. Did he not continue that for some time? How long?

A. He was president of the National Tube Company at the time of the formation of the United States Steel Corporation.

Q. Did he not become a director of the United States Steel Corporation then?

A. He did.

Q. Was he not a man of very large experience and knowledge in the matter of the manufacture and sale of tubes?

A. I should rather he would testify as to that himself. I had no personal acquaintance with Mr. Converse before he was a member of the executive committee of the United States Steel Corporation.

Q. You had no experience in the making of tubes?

A. I had not.

Q. Nor in the sale of tubes?

A. I had not.

Q. Nor in the market condition of tubes, had you?

A. I was a purchaser of tubes, yes.

Q. At what time?

A. During my connection with the Pencoyd Iron Works.

Q. For what purpose?

A. The various purposes of those works.

Q. Just state what they were.

A. The multitude of uses that pipe could be put to in a steel manufacturing plant; steam, water and gas.

Q. What kind did you use?

A. Lap-welded pipe, and in hydraulic machinery some seamless.

Q. Some seamless?

A. Yes.

Q. You used both?

A. Yes.

MR. SEVERANCE: Wait; let us see. Did he say both?

By MR. DICKINSON:

Q. Did you say both.

A. I said some seamless for hydraulic purposes, where the pressures were too high for welded.

Q. Then I said both. You said you used both?

A. Yes, we used both. The seamless was a new introduction; I had used seamless only for a very few years.

Q. I call your attention to the meeting of directors of the National Tube Company, October 16, 1900, Volume II, page 405 of Government Exhibits. The president—that was Mr. Converse at that time, was it not?

A. I do not know.

MR. SEVERANCE: I object to this as improper cross-examination of the witness for the reason that the witness was not present at the meeting, was not an official of the National Tube Company, and that this meeting is of a date prior to the organization of the United States Steel Corporation, and therefore any proceedings held at that meeting cannot be used on the cross-examination of this witness.

By MR. DICKINSON:

Q. I will read, Mr. Roberts. The record shows that Mr. Converse was there on this occasion, October 16, 1900:

“The President reported * * *

“That the Board has authorized the officers to continue their development of the Seamless Tube business at the Christy Park Plant of this company; that the officers have given very close study to the state of the art covered by the piercing and rolling processes which form the basis of the manufacture of seamless tubes; that at present the great bulk of seamless tubes are made by the Shelby Tube Company; that the other chief competitor of this company is the Standard Seamless Tube Company; that the exploiting of seamless tubes in competition with our lap-welded products at a parity of prices and the universal adoption of this style of tubes for modern purposes has convinced the officers of the advisability of still greater activity on our part to place ourselves in a position to meet the growing demands of seamless tubes for marine, locomotive and merchant purposes, as well as to enable us to use seamless tube products as a defensive method in protection of our lapped welded products; that the development and com-

pletion of our present Christy Park plant will probably involve an outlay of \$250,000, and will consume two years' time to bring it to a profitable capacity; that the executive officers deem it advisable for this company to keep in the forefront of progress and to command this branch of business at the earliest state of its development, and governed by these considerations the Executive Officers have tentatively negotiated for the acquisition of the Standard Seamless Tube Company with its patents and plant, and with the services of the two gentlemen whose inventions and commercial ability are the present basis of its establishment, if such purchase can be made upon satisfactory terms and after investigation; that this subject requires immediate authorization by the Board if the Board deem it preferable to acquire the Standard Plant than simply to increase its Christy Park Plant during the period of two years; that the time saved in the acquisition of the Standard Plant, as well as the advantages of a modern and well equipped plant to be immediately employed are very great."

Now, do you know under what patents they were operating at their Christy Park Plant at that time of your own knowledge?

A. I do not.

Q. Were you ever there?

A. I never was there.

Q. Never saw their machinery?

A. Never saw their machinery.

Q. Do you know what at that time seamless tubes of the same sizes as lap-welded tubes were being sold at in comparison with lap-welded tubes? Can you give the prices?

A. Not in detail. They were a much higher range than the lap-welded pipe.

Q. What do you understand parity of prices to mean?

A. At the time you refer to as of about the year 1900 there was a great deal of discussion going on among engineers as to——

Q. Now, Mr. Roberts——

MR. SEVERANCE: I object to the witness being interrupted when he is just starting to answer. You cannot tell whether

his answer is going to be responsive or not from what he has already said. I suggest that he be permitted to answer and if it is not responsive you can move to strike it out.

MR. DICKINSON: I will wait a while and see.

MR. SEVERANCE: That is what I suggest.

By MR. DICKINSON:

Q. Go on, Mr. Roberts.

(The question was then read as above recorded.)

THE WITNESS: Cross that out. An equal range of price; interchangeable prices, I would understand by a parity of prices.

Q. Now, what do you understand by "exploiting of seamless tubes in competition with our lap-welded products at a parity of prices" to mean?

MR. SEVERANCE: I object to that as asking for a conclusion and asking for an opinion on a question which is not a subject of expert testimony, and as not proper cross-examination and irrelevant.

MR. DICKINSON: He has given so many opinions I thought I would take another one.

THE WITNESS: Now I will have to reply to that by what I started to reply before. As of about the year 1900 a considerable amount of discussion took place among engineers as to the possibility of using steel pipe, welded pipe, as a substitute for pipe made of wrought iron.

In the early days of steel pipe a great deal of difficulty was experienced in proper welding, so that a large number of consumers refused to accept steel pipe and distinctly specified that their requirements must be filled with wrought iron. The makers of welded steel pipe, of which the National Tube was the largest, were considerably exercised over this question and were seeking if possible to develop a seamless tube as a substitute for a steel welded tube, and one which could be sold at the same price as their welded goods were at that time.

By MR. DICKINSON:

Q. Is that the only answer you can give to my question? I will repeat the question: What do you understand this to

mean: The "exploiting of seamless tubes in competition with our lap-welded products at a parity of prices."

MR. SEVERANCE: I make the same objection to that that I did to the other. This is not a question for expert testimony. Mr. Roberts is not an expert on Mr. Converse's language, and it is incompetent, not cross examination.

THE WITNESS: I think my answer is responsive to that question.

By MR. DICKINSON:

Q. Mr. Roberts, do you mean to say that the seamless tubes were not being exploited at that time in competition with lap-welded products at a parity of prices, or do you know of your own knowledge that they were?

A. I do not think they were.

Q. What?

A. They were not.

Q. And you cannot give prices?

A. I cannot give prices.

Q. Of either?

A. Of either.

Q. For any size?

A. For any size.

Q. When you make that statement, what do you base it on?

MR. SEVERANCE: Which statement; that he cannot tell prices?

MR. DICKINSON: The statement that they were not in competition at a parity of prices.

THE WITNESS: What is the question?

By MR. DICKINSON:

Q. That they were being exploited in competition in 1900 with lap-welded products at a parity of prices.

A. I say they were not.

Q. When you say that and are not able to give the price of either one at that time, on what do you base your statement?

A. Memory.

Q. Memory?

A. Yes, memory.

Q. Memory of what?

A. Memory of that fact.

Q. Just the fact, without any knowledge whatever as to prices?

A. As far as details of prices are concerned, my memory is not good enough to carry them for that length of time.

Q. Can you give any approximation of them?

A. No.

Q. Mr. Roberts, on page 9257 of your testimony you said—probably I had better read the question and the answer, so you will understand it.

“Q. Mr. Roberts, during the time that you have been connected with the Steel Corporation as a director, or as a member of the finance committee, or as a member of the executive committee, will you state whether in favoring the purchase or acquisition of any properties of any description at any time you have done so for the purpose of procuring a monopoly or eliminating competition or restraining trade?

“A. Never with any one of those views in mind, but strictly from the standpoint of their necessity for the operations of the Steel Corporation as originally planned along the lines of conservation or efficiency in shop management.”

What plan do you refer to where you speak of “originally planned;” a plan formed when and by whom, and what did it involve? Just explain that original plan.

A. Are you speaking now of prior to the formation of the Steel Corporation or afterwards?

Q. I do not know what you mean. You said “for the operations of the Steel Corporation as originally planned.” Now, I want to know what you mean when you speak of “originally planned.”

A. The plan as discussed and attempted to be carried out by the executive committee of the board of directors of the Steel Corporation.

Q. You were referring, then, to plans formulated subsequent to the formation of the Corporation?

A. So far as I was concerned, yes.

Q. I mean so far as that answer is concerned.

A. Yes, and so far as that answer was concerned.

Q. What was the capacity of the Carnegie Company in Bessemer Steel in the year 1900?

A. I cannot give that exact figure?

Q. State what you know about it?

A. In the neighborhood of probably a million tons of ingots, 750,000 or a million.

Q. You have testified, however, about the output of the Carnegie and the Illinois?

A. Yes.

Q. Did you base that testimony upon knowledge you acquired as of the time, or hearsay?

A. I testified to that——

MR. SEVERANCE: I object to that as calling for a legal conclusion.

MR. DICKINSON: I did that for short. I am trying to get along, to accommodate you. I can elaborate, however.

THE WITNESS: I acquired that knowledge from the report as to the production of the Carnegie Steel Works as of the year 1900.

By MR. DICKINSON:

Q. In the year 1900, about that?

A. No.

Q. When did you acquire it; that is what I want to get at?

A. Since I have been a director of the Steel Corporation.

Q. How long since

A. Since this time?

Q. Yes; when did you first acquire that information?

A. A few weeks ago.

Q. A few weeks ago?

A. Yes.

Q. How did you acquire it?

A. By looking at the report of the production of the Carnegie Steel Works and the Illinois Steel Company for the year 1900.

Q. And the information you acquired was that in the year 1900 it produced approximately a million tons of Bessemer?

A. Something like that, I should say; a million and a

quarter tons of open hearth, something of that kind; those would be about the figures, I think.

Q. What was the capacity of the Carnegie in the year 1900 in Bessemer steel ingots?

A. I don't know.

Q. Haven't you any idea what it was?

A. I have not.

Q. Can you approximate it at all?

A. By reference to the Iron & Steel Directory of the United States I can give the ingot capacity.

Q. That is the only way?

A. That is the only way at this time.

Q. Do you know anything about it yourself, independent of what you have picked up from statistics to prepare yourself to testify in this case?

MR. SEVERANCE: I object to that as an improper question.

THE WITNESS: As of that date, no.

By MR. DICKINSON:

Q. As of what date did you know?

A. I probably had a very close approximation for the year 1900 as to their capacity as well as what their output was.

Q. But you cannot remember now?

A. I would not undertake to at this late date.

Q. All the information and knowledge you can give now is based upon statistics you have been reading up lately in preparing the testimony in this case, is it not?

A. No.

Q. Then when did you get it and where did you get it?

A. That portion of my testimony in which I have not referred to detailed data, and the name of the place where I obtained it from, I have given you from memory.

Q. I am referring to the testimony you gave about the output, on this particular subject that we are now referring to.

A. The testimony I gave as to that output, I have just testified I gave from a report showing the output of the Carnegie Steel Company for the year 1900.

Q. And you have no other knowledge on the subject except

that? If so, state what knowledge you have, independent of it.

A. From memory I have no knowledge at this date.

Q. And without that statistical information acquired recently you cannot give any figures?

A. Not from memory at this time I cannot.

Q. Is that the same in regard to the statement with respect to the Illinois and its output?

A. The same applies to the Illinois, yes.

Q. And the National Steel?

MR. SEVERANCE: Did he give any statistics as to National Steel?

MR. COLTON: He gave statistics, yes.

MR. SEVERANCE: Did he; I did not hear that.

MR. COLTON: Not exact.

MR. DICKINSON: The testimony given by Mr. Roberts as to the output of these various companies is objected to because it has been shown to have been based entirely upon hearsay, and the witness has no independent knowledge on the subject.

By MR. DICKINSON:

Q. Did you answer that question?

A. What was the question?

Q. The question was have you any knowledge as to the output or capacity of the National Steel at any time prior to its going into the Corporation, other than such information as you may have obtained by a recent study of the statistics?

MR. SEVERANCE: I object to that as not proper cross examination. There was nothing of that kind gone into with the witness on direct examination.

MR. DICKINSON: About the National Steel?

MR. SEVERANCE: No sir.

MR. DICKINSON: I am not so cock-sure about it.

By MR. DICKINSON:

Q. Have you any knowledge?

MR. SEVERANCE: I object to that as not a proper question; there is no foundation for the question.

By MR. DICKINSON:

Q. I will put it this way. Can you give any information from your own knowledge as to the capacity of the National Steel Company with respect of its various products at any time prior to its being taken over by the Corporation, other than such information, as you may have acquired, if you have acquired such information from recent study of statistics?

A. No, absolutely not.

Q. What percentage in 1900 of the output of the Carnegie Steel Company in Bessemer Steel went into steel rails and what percentage went into billets?

A. I really do not know.

Q. I will ask you the same question as to the Illinois Steel Company.

A. I cannot answer.

Q. Can you give any approximation as to either?

A. I cannot.

Q. In 1900 was the Illinois Steel operating its open hearth furnaces to their full capacity?

A. In 1900?

Q. Yes.

A. Capacity is a theoretical point never reached in practice.

Q. Were they running their ability to produce open hearth steel for all it was worth?

A. I should say, I think so in the year 1900.

Q. Do you know anything about it?

A. Not from actual figures, no, but the general conditions of the trade were such that those works would be running full in the year 1900.

Q. Is that what you base your answer on?

A. Yes.

Q. Only from general conditions of trade?

A. Yes.

Q. And not from any intimate or personal knowledge of their operations?

A. I was not in their works in 1900.

Q. I will ask you the same question as to their Bessemer plant?

A. The same reply.

Q. That is to say, based upon your knowledge of the general conditions would you say they were running to full capacity?

A. That is correct.

Q. How long did that continue, the running of those concerns, according to your information based upon the sources you have given, how long did that continue?

A. I cannot answer that question.

Q. You know of the conditions for the year 1900?

A. I do.

Q. Well, what were the conditions in 1900, was there a demand or overproduction?

A. They were good until the close; there was a declining market toward the close of 1900.

Q. Was there a decline in production then, or did the decline in production follow later?

A. The decline in price would precede the decline in production.

Q. Sometime, would it not?

A. It would depend upon actual circumstances.

Q. Can you state how it did at that time?

A. I cannot, no.

Q. Going back to the Illinois Steel, what was their production at that time in sheared plates?

A. About 80,000 tons.

Q. Of sheared plates?

A. Yes.

Q. What was the output of the Illinois Steel Company of open-hearth steel?

A. About 180,000 tons of ingots, I think. I testified to that yesterday, I think.

Q. How many tons of sheared plates would 180,000 tons of ingots make?

A. About twenty per cent. less than the weight of the ingots.

Q. Twenty per cent. less?

A. Probably thirty per cent.

Q. Now, as I understand you, the output of the Illinois Steel Company in 1900 in sheared plates was 80,000 tons?

A. In round figures; I am not positive.

Q. And its open-hearth steel was 190,000 tons?

A. That is correct; ingots.

Q. Yes, of ingots. And that 190,000 tons of ingots would make——

A. Twenty to thirty per cent. less.

Q. That would be between 140,000 and 150,000 tons of sheared plates, would it not, if all of it was put in sheared plates?

A. Yes; about 130,000.

Q. Now, in your direct examination, on page 9270 of the typewritten testimony, you said, "the open-hearth output of the Illinois Steel Company was used practically entirely in sheared plates." Where did you get that information?

A. From the Illinois Steel Company. I know of my own knowledge their open-hearth plant adjoined their plate mill and supplied their plate mill with its product. At times, if there was a surplus it went into miscellaneous material. It may have gone into billets or slabs; but the plant, as a plant, was an open-hearth plant, and attached to it, a sheared plate mill. I have been in that plate mill.

Q. And you said that practically it was entirely used in sheared plates?

A. I think that is a correct statement as a general statement, yes.

Q. But in 1900 it only produced 80,000 tons of sheared plates?

A. That is right.

Q. When, if all the steel ingots, open-hearth, had gone into sheared plates, it would have been over 140,000 tons?

A. It might be they had not sufficient orders that year to put the entire output into sheared plates.

Q. Then when you stated it was used practically entirely for sheared plates you were speaking of your own knowledge of what actually existed?

A. Yes; that is a correct statement.

Q. It is a correct statement?

A. Yes.

Q. Notwithstanding your other statement?

A. Which other statement?

Q. You have stated that for that year they put out 80,000 tons of sheared plates, and that they made 190,000 tons of ingots?

A. That is right.

Q. Which would have produced between 140,000 and 150,000 tons of sheared plates.

A. That is right.

Q. Both of them are right, are they?

A. Both of them are right. One confirms the other.

Q. Well, what did you mean by the words "practically entirely"?

A. In what connection?

Q. In that connection there; the open-hearth output of the Illinois Steel Company was used practically entirely in sheared plates.

A. Any steel producing plant considered as a whole is never perfectly balanced. A man builds a sheared plate mill and a number of open hearth furnaces. Never will the product of the mill balance evenly the product of the furnace, depending upon the nature of the specifications for his finished material, which may be light or heavy. Therefore he makes a certain amount of by-product from time to time and must dispose of the product of his steel melting furnaces in other ways, if his finished material will not consume it. Therefore, speaking from the standpoint of a steel manufacturer, it is perfectly correct to say that his output practically all went into sheared plates, whereas at times it might be disposed of as a by-product. But if you take it over a period of time, possibly longer than a year, you will find that practically the output of those open hearth furnaces went to his sheared plate mill.

Q. Well, now, do you know what was the product of the Illinois Company in open hearth ingots in the year 1899?

A. I do not.

Q. Do you know how much of that product that year went into sheared plates?

A. I know nothing about the product for 1899. I have seen no figures.

Q. What years, then, were you referring to when you said the open hearth output of the Illinois Steel Company was used practically entirely in sheared plates?

A. The year 1900.

Q. And for that year you show that not much more than one-half of it went in, don't you?

A. No, more than one-half.

Q. More than one-half?

A. Well, they produced 190,000 tons of ingots, and they produced—yes, just about one-half that year. The product of plates in tons was one-half the product of ingots produced, but bear in mind there is a waste there of twenty or thirty per cent.

Q. Yes; we allowed for that, I think.

A. I do not think you did.

Q. We took thirty per cent. and made it between 140,000 and 150,000.

A. But not in the last statement in which you said to me the production of their open hearth steel was twice as great as the product.

Q. No, I did not say twice; I said nearly.

A. I say that is not correct, because you do not make your allowance of your twenty to thirty per cent. waste.

Q. Let us make that allowance.

A. Then it is over one-half.

Q. How much over one-half?

A. If you take off your waste, you have got about 60,000 tons that comes off there; 150,000 as against 80,000. More than one-half.

Q. What percentage did you take off, twenty or thirty, or twenty-five?

A. I took off about twenty-five.

Q. You say you took off twenty-five per cent?

A. I took off twenty-five per cent; that would be roughly 50,000 off; that makes 140,000 and 80,000.

Q. It would be 47,500 off, wouldn't it?

A. Roughly that. It is easier to figure in round numbers.

Q. So that would make the amount of sheared plates that could be produced 142,500 tons?

A. Roughly that.

Q. And you say they only produced 80,000?

A. Yes.

Q. That is the only year you give any figures for?

A. The only year, yes.

Q. And that year the result is as shown, is it?

A. It speaks for itself.

Q. What do you mean by open hearth output of the Illinois Steel Company in the year 1900?

A. Ingots.

Q. Is there any difference in them?

A. In what?

Q. In the ingots that come under the head of "open hearth?"

A. In what way; different sizes of ingots?

Q. Different sizes.

A. Yes, the ingot is the weight of the fluid steel which is poured into the moulds from the melting furnace.

Q. Now, you say, when you refer there to open hearth output of the Illinois Steel Company, you refer to ingots and to all classes of open hearth ingots; is that what you say?

A. Yes; I say open-hearth ingots.

Q. I call your attention to Government Exhibits, Volume IV, page 1443, furnished by the United States Corporation for the year 1900 for the Illinois Steel Company, there were produced, open-hearth ingots, acid, 18,820; open-hearth ingots, basic, 175,000; total ingots, 193,848.

A. That is the figure I gave.

Q. Which one?

A. The one you just read.

Q. So the total, then, was 193,848?

A. You say so; I have not the figures, beyond what I gave, about 190,000 tons.

Q. I believe I asked you about percentage, but now I will ask you what proportion of the Bessemer output of the Carnegie Company and the Illinois Steel Company, respectively, went into steel rails and what proportion went into billets.

A. I have no figures in my mind in regard to those percentages.

Q. Have you any knowledge in your mind?

A. No memory, no.

Q. Which you can give me?

A. No memory at all.

Q. You stated on page 9271, "The competition existing at that time between these concerns"—that was the Carnegie and the Illinois—"was confined to their Bessemer output, which largely or almost exclusively went into steel rails and some billets for purposes such as wire, sheets and so forth." When you gave that testimony did you base it on your own knowledge?

A. I know that their output of Bessemer steel went into those various articles.

Q. I did not finish. Did you base it upon your own knowledge, or information which you had derived from the examination of statistics?

A. No, I am very clear on that. I was competing with the Carnegie Steel Company at that time and knew very well what their steel was going into. I answer of my own knowledge.

Q. Your answer is, then, that at that time, in the year 1900, based upon your own knowledge that the Bessemer output of the Carnegie Steel Company went almost exclusively into steel rails and some billets for purposes such as wire, sheets and so forth? Is that what you state now as of your own knowledge?

A. Yes. I might add that probably a portion of those billets were afterwards re-rolled into small sizes of merchant bar by the Carnegie Steel Company and by the Illinois Steel Company.

Q. Do you mean to say because you used the expression "the competition existing between these concerns was confined to their Bessemer output," do you mean to say of your own knowledge the Bessemer output of the Illinois Steel in the year 1900 went largely or almost exclusively into steel rails and some billets for purposes such as wire, sheets and so forth?

A. I think I am correct in saying that, yes. Bear in mind that that is the stopping point. I do not give the ultimate destination of those billets.

Q. No, you did not give that.

A. Some of the Illinois, those billets undoubtedly went into wire rod, but as a proposition at the stage of manufacture which I have been describing it went either into rails or into billets, slabs, or tin plate bars.

Q. Now, Mr. Roberts, at the time it was taken over by the Steel Corporation, and for the several years immediately preceding that, where did the Carnegie Steel Company sell the bulk of its billets?

A. In the Pittsburgh district, and extending out through Ohio, Indiana, through the East.

Q. And where did the Illinois Steel Company during the same period sell the bulk of its billets, so far as it sold any?

A. Largely in territory rather more adjacent to Chicago, but at the same time overlapping into what might be termed a common territory between Pittsburgh and Chicago.

Q. That is, territory common to both of those companies?

A. Yes.

Q. Do you know the periods at which they were both in the billet pool? and if so, state the time.

A. I know nothing about a billet pool; never knew there was one.

Q. Have you had any personal experience or knowledge of the organization or working or effects of any pool other than the beam pool, and if so, what pools have you had such knowledge and experience of, and the time of their existence and how they worked, and what were their effects on prices?

A. I think that I stated yesterday that the only pool that I had ever personally been a member of was the beam or structural material pool.

MR. SEVERANCE: That includes beams?

THE WITNESS: Beams, angles and channels.

By MR. DICKINSON:

Q. It was usually called the beam pool, wasn't it?

A. No, I think it was the Structural Makers' Association, to be quite correct.

Q. Is that the only one that you personally operated under or in connection with?

A. That I was a member of, yes.

Q. Did you have any intimate knowledge of the operations of other pools?

A. Nothing but the knowledge that was common to the trade.

Q. Common to the trade?

A. Yes.

Q. Did you have any knowledge as to other pools, as to the fixing of prices, if they did fix prices, and over what periods of time such prices prevailed, if they did prevail?

A. No personal knowledge, no.

Q. And you know nothing except what you say was given out and known in a public way?

A. I think prior to the year 1900, in the class of material which I have been speaking of the Structural Association was the only one that had pools.

Q. That is the only one you know of?

A. The rail makers may have had at times.

Q. How about plate?

A. I think a plate pool was formed in 1900.

Q. You know nothing prior to that?

A. Not in plates.

Q. How about the billet pool in 1900? Do you know anything about it?

A. Billet pools, I could not answer. I do not know.

Q. How about pig iron in 1900?

A. No pools that I know of. Some association known as the Valley Furnaces had a selling agent, I think, but nothing in the nature of pools.

Q. I am asking about arrangements in these several things.

A. No, the Furnaces had a common selling agent, I think, through the Ohio Valley.

Q. But do you know whether they fixed prices and sold at a common price? Have you knowledge on that subject?

A. No, I was not a purchaser of pig iron in that district. I have no personal knowledge.

Q. Then your own personal knowledge of pools is confined to the Structural Pool?

A. Confined to the Structural Pool.

Q. And to its operations and effects?

A. Yes.

Q. Were those pools when they were formed generally advertised in the papers, and the names of the members advertised and the terms of the agreement advertised, or were they secret generally?

A. No, they were widely known in the trade at the time and spoken of in the trade papers, and their prices were published.

Q. The prices at which they sold.

A. The names of the parties were known. In those days, and until I gave up active business, we never looked on those pools as in any manner, shape or form illegal; we thought we had a perfect right to make such arrangements, and we did not conceal them in any manner.

Q. You had a perfect right?

A. We thought we had a perfect right, yes.

Q. Those were things of such common, general notoriety that any man connected with the iron and steel business would be apt to know about that, wouldn't he?

A. Of pools?

Q. Yes.

A. Beam pools or structural pools?

Q. Yes.

A. I am speaking of structural pools only. I told you I had no personal knowledge of the others except the structural or beam pool, and I say that that pool was of entire notoriety and was spoken of from time to time in the trade papers, those who belonged to it were known, and it was known to the public and to the consumer.

Q. I understood that, but I was asking you further, and that is as to your knowledge and information as to other pools, and I understood you to say that they were so generally accepted as being legal processes that there was no secrecy about them, and it was a matter of common knowledge that they existed.

A. I was speaking of the beam pool alone.

Q. Then in all that you have said in your testimony in regard to the existence of pools and their operations, and

their effects upon prices, have you been confining it to the beam pools? If not, and if you had in mind in that connection other pools, please state what they were, and we will proceed to ask further about them.

A. I cannot, without referring definitely to my testimony, answer that question. I think, however, that I have testified in all cases whether I was speaking of pools generally or of one pool in particular.

Q. Now, I will ask you whether you know the effects and operations of pools generally, or only the effects and operations of this structural pool to which you have referred?

A. No, I think I know the effects and arrangements of that character generally.

Q. Arrangements of that character, and arrangements with respect to what? Just describe that now, those that you have in mind.

A. Profit sharing and the allotments of percentage among the several producers.

Q. How about fixing prices and selling at a common price?

A. Well, that was an incident.

Q. But do you know of any pools which had that as part of their agreement?

A. The fixing of prices?

Q. Yes; if so, state what they were.

A. I think the plate pool had a general price. In the pools that I knew of the matter of fixed prices was not observed.

Q. You say the pools you know of. Which were those?

A. The beam pool, from my personal knowledge; I speak of the others from my observance, being engaged in the trade.

Q. Name them, will you?

A. And the plate pool. There was at times a rail pool. There was at times a billet pool.

Q. What was the last one?

A. A rail pool. There were at times pools of lighter products, more highly finished products, which I do not know anything about.

Q. Take up the plate pools. Just state the periods that you know of when there were plate pools in operation and who were the members of them.

A. The first plate pool I recall was formed in 1900.

Q. How long did it last?

A. I think it lasted until about 1904, or thereabouts. I am not exact.

Q. Were you ever at any of the meetings of that pool?

A. I was not.

Q. Did you ever see any of the agreements that were made by it?

A. I have seen what purported to be agreements, that were unsigned, I believe.

Q. Have you seen what you knew to be any agreement?

A. The only agreements I ever saw were produced in the Stanley investigation.

Q. Now, you say you have no knowledge of a plate pool except one formed in 1900 and continued until 1904.

A. That is correct.

Q. The billet pool. What knowledge have you of a billet pool?

A. I cannot give you any definite knowledge of billet pools, except my memory has an indistinct recollection at times of agreements between certain large makers of billets, but I would say I do not know.

Q. You cannot give any period of time for that?

A. No. I am too hazy on that.

Q. Tell me about the first rail pool you know about.

A. I cannot give you any data as to rail pools.

Q. Any information about it at all?

A. I had no personal connection.

Q. Then the only thing you can tell me about is the structural pool which you were in, and the plate pool which you have given some information in regard to?

A. Yes.

Q. Are those the only pools with respect to which——

A. I can give particular details.

Q. Well, are those the only pools with respect to which you know the operations of them?

A. That I personally know the details.

Q. You personally know the details?

A. Yes.

Q. As to those.

A. Yes.

Q. Give us the details as to the plate pool and who were in it.

A. The principal ones in the plate pool were the Carnegie Company, Cambria, the Illinois, Lukens, Central Iron & Steel Company, Worth Brothers; and I think Otis were in it. I am not sure.

Q. Did you ever attend any of their meetings?

A. I did not.

Q. Did you ever have anything to do with their prices?

A. I did not.

Q. Have any knowledge of their prices?

A. I did not. I may have had knowledge of their prices at the time. I do not recall the exact prices now.

Q. Were these details that you speak of, that you knew about, a matter of notoriety?

A. Yes.

Q. And common knowledge to people engaged in that business?

A. Yes.

Q. Was that knowledge so common and general that anyone engaged in the iron and steel business that was at all well informed would know of their existence?

A. They would.

Q. Did you know, Mr. Roberts, of the so-called wire nail pool which was in existence in the latter part of 1895 and the greater part of 1896?

A. No, I knew nothing of it. I was not either a buyer or seller of that class of material.

Q. Still, you were generally informed at that time of what was known generally in the trade papers and a matter of common knowledge?

A. Yes.

Q. And if such a pool existed at that time it was not a matter of such common knowledge as these other pools of which you have spoken, where you say every well-informed man would know of them?

A. Well, if I had knowledge of it at the time, I have no memory of it now.

Q. If you ever had any knowledge about that, you have forgotten all about it, have you?

A. Yes.

Q. Would you be able to state, then, whether or not in the latter part of 1896 and up to the end of 1897 there was considerable competition in the wire nail business and that prices were comparatively low?

A. Not from memory without the data before me, no.

Q. Well, you have no knowledge on the subject now?

A. No.

(Whereupon a recess was taken until two o'clock p. m.)

AFTER RECESS.

PERCIVAL ROBERTS, JR.,

the witness under examination at the taking of recess, resumed the stand for further

CROSS EXAMINATION (Continued),

By MR. DICKINSON:

Q. Mr. Roberts, questions and answers appear on page 9304 of your testimony, as follows:

“Q. Were those prices maintained at a uniform figure for long periods of time, or did they fluctuate during the existence of the pool?

“A. They fluctuated during the existence of the pool as shown on these charts. The matter of control in no sense of the word means uniformity.”

Were you speaking then of any particular pool, or just generally of a pool?

A. That testimony, I think, was in connection with the Government exhibits.

Q. Yes, it was.

A. Showing the line, and the tables showing the prices of steel beams.

Q. Only with respect to steel beams, was it?

A. I think I was testifying at that time about that table.

Q. Wait a minute. Maybe you are right.

MR. SEVERANCE: That is what he was being examined about, with reference to that chart.

By MR. DICKINSON:

Q. The question was on page 9303:

“Q. During the operation of a pool such as the beam pool, how is it that prices fluctuate?

“A. They fluctuate in accordance with the supply and demand, always within reasonable limits, and that was the controlling factor of the beam pool, of which I can speak personally. Its object and purpose were to keep prices within reasonable limits and prevent destructive competition. That was its purpose and its object.

“Q. Were those prices maintained at a uniform figure for long periods of time, or did they fluctuate during the existence of the pool?

“A. They fluctuated during the existence of the pool as shown on these charts. The matter of control in no sense of the word means uniformity.”

Now, in those answers which I have read, were you referring alone to the effect of the beam pool?

A. To the beam pool or any other pool formed along similar lines.

Q. What other pools formed along similar lines did you have in mind, if any, and intended to embrace, if any, in that answer?

A. I think the question you read as asked me by Mr. Severance was as to the operation of the beam pool or any other pool formed along those lines, and therefore I had no other definite pools in my mind, further than the fact of any other pool that might be formed along the same lines as the beam pool.

Q. That is to say that if there were any just like the beam pool, your answer would embrace them?

A. Yes.

Q. But you did not mean to say there were any just like it?

A. No.

Q. And that you were only speaking with knowledge as to the effect of the beam pool?

A. Personal knowledge, yes.

Q. Now, the next thing is:

“Q. That is what I wanted to get at.

“A. But it was a control within reasonable limits, as distinguished from destructive limits.”

Now, what would you call a control by a pool within reasonable limits?

A. A price which would return to the producer a fair amount upon the capital invested.

Q. Suppose that there were different manufacturers in the same pool, and that on account of facilities and character of works, one could produce cheaper than the other, or one could produce cheaper than a number of others, or there was no close proximity in cost, then what kind of a control would be reasonable so far as prices were concerned to be affected by such a pool?

A. To enable a man who had adapted his establishment reasonably, who had kept his establishment reasonably abreast of the most advanced state of the art; those who had not done so would either have to do it or drop out.

Q. Drop out of what?

A. Manufacturing.

Q. I am speaking now, Mr. Roberts, of what kind of a control, within reasonable limits, did you have in mind? For instance, if it affected prices, what would you call keeping prices within reasonable limits?

A. I think I answered that question, sir, just now, when I said that prices kept within reasonable limits would mean a reasonable return upon a capital invested in a plant which had been reasonably kept up to the most advanced state of the art.

Q. Well, now, in that beam pool were the prices at which the products embraced in that pool were sold by the members of that pool fixed on any basis, and if so what basis?

A. I cannot answer that more fully than to say that they were at all times fixed upon a reasonable basis, and the chart in question so shows.

Q. This reasonable basis had a relation, had it, to the cost of production of the several members of the pool?

A. I should say that it had.

Q. Did you in the beam pool have before you any question of prices or cost of the various members of the pool, and was any price reached upon an investigation into the cost of production of the several members?

A. Yes. The theory of the pool was that the penalty which was charged the members for exceeding their percentage of output was supposed to be equal to the profit in producing the material.

Q. Well, the penalty was the same for all, was it not?

A. Yes.

Q. Did all of them produce at the same cost?

A. Not a very great difference, if you leave out of account the advantages one might have had over the other in the cost of his raw material; that of course would make that vary to a certain extent, but not to a very serious amount.

Q. Did you actually, in getting at the cost or price, take into account the cost of the product of the several manufacturers and fix the price with relation to that?

A. Yes, I think we did.

Q. You mean to say that you took up the cost of the concern in any way, shape or form and arrived at that cost?

A. Yes, I think we did.

Q. Well, now, tell me who was present when any such thing as that was done?

A. All the manufacturers who were in the pool.

Q. Just name who they were and where such a meeting took place, and the time at which it took place?

A. No, I could not go into that in detail, so far as that, as to time.

Q. You cannot fix the time?

A. Because it took place at various times and at various meetings, the discussion.

Q. You mean the discussion in which you took up and

considered the cost of production of the several members of the pool took place at various times and at various meetings?

A. Yes.

Q. Can you name a single place or time at which such a meeting occurred, and those who were present? If so, give the name of the place and those who were present.

A. The place I should say probably was the Waldorf-Astoria Hotel in New York. Those that were usually present, I might say always present, were the representatives of the concerns who were in that pool. I know of no meeting at which all interested were not represented. They may have been represented at different times by different officers, but they were always represented, all the parties, represented by some one.

Q. At the meeting which you say occurred at the Waldorf-Astoria—

A. No special meeting, I said all the meetings.

Q. Can you give any special meeting?

A. No.

Q. At all these meetings did they go into the question of cost?

A. No.

Q. Give me one meeting and one place.

A. I told you I could not do it.

Q. Where any such thing was gone into.

A. I could not do it in detail.

Q. You say there was such a meeting?

A. I know there were meetings.

Q. Were there meetings at which you took up and considered the cost of production of each of the members of the pool and took that into consideration with respect to the price that the members of the pool were charged for the product?

A. We did.

Q. Did you have the cost sheets there?

A. No.

Q. What did you have?

A. We relied on the statements of the several manufacturers.

Q. Can you name anyone present at all at any of these meetings, who made such a statement?

A. I can name those who were present, and I know that statements were made by all.

Q. Just state what kind of statements were made.

A. I cannot give that to you in detail excepting to say that I did make such statements, and we all made such statements, as to the cost of manufacture and as to a reasonable selling price based thereon, and that determined our course of action.

Q. Did you make a statement——

A. Not only the cost of manufacture governed the matter, but also the supply and demand.

Q. Did you make a statement at any time at any place at any meeting of the members of this pool, showing what the cost of the Pencoyd Works was of producing the articles embraced in the pool agreement?

A. I undoubtedly did, yes.

Q. Who else made such a statement?

A. All the members present.

Q. What did these statements show?

A. They showed the cost of manufacture.

Q. The actual cost?

A. Yes, in round figures.

Q. In round figures?

A. In round figures.

Q. And of the several articles embraced in the pool?

A. Yes. Do not understand me, though, to say that that was the only governing factor in the matter of prices.

Q. No, you have not said that. Now, in estimating this cost upon which these statements were made, what did you include in the cost?

A. We included everything.

Q. That is, the cost of the ore?

A. Yes, it included cost of raw material, included shop costs, depreciation, overhead charges, and everything which entered into the cost of the material.

Q. And each of you then showed to the others the costs of the material and the cost of overhead charges?

A. Yes, we each knew the others' costs.

Q. I am not asking you that, but what each stated to the others at these meetings to which you refer.

A. Each stated in round figures what his cost of manufacture was.

Q. Was your cost the same as the Carnegie?

A. It was not very far different, if you leave out of the question the cost of the raw material, the ore, or take it at the point of pig iron. They came up to the mouth of the open hearth furnace with lower costs than we did at Pencoyd. From there on our costs were not dissimilar.

Q. Taking into consideration the question of ore holdings and of transportation—for the Carnegie had both, did they not?

A. At what time?

Q. At the time that pool was in operation.

A. No.

Q. In 1900?

A. No, that pool was formed in 1897.

Q. Which?

A. January 1, 1897.

Q. Were you in the pool of 1900?

A. Was I individually?

Q. Well, the Pencoyd Works.

A. The Pencoyd Works were in the pool up to the time that I left the presidency of the American Bridge Company, which was in the spring of 1902.

Q. And when did it go into the pool?

A. On January 1, 1897.

Q. And continued in it constantly?

A. Yes.

Q. How often did you make these disclosures in regard to costs, and consider that as an element in fixing the price?

A. I could not answer the number of times.

Q. At any period during that time did the Carnegie have superior advantages over the Pencoyd in respect to the ownership of ore and the transportation of ore?

A. You mean from the standpoint of price?

Q. I mean what it cost them.

A. Yes; their pig iron delivered to the mouth of their open-hearth furnace was a lower cost than the pig iron delivered at the mouth of the open-hearth furnace at Pencoyd.

Q. Take it from start to finish with them and from start to finish with you, which could produce beams cheaper, the Pencoyd or the Carnegie?

A. They might possibly produce them slightly below our cost; not very much. You see, from the time we reached the open-hearth furnace wages in the East were considerably lower than wages in Pittsburgh, so that while they started with a lower price for raw material, at the mouth of the open-hearth furnace, we caught up before we got to the home base.

Q. What time was that, now?

A. I am speaking between——

Q. Throughout the whole period of that pool?

A. Yes; that would apply to——

Q. Was that true of all the other companies in the pool besides yourself?

A. No, I think we had some advantages over others in the pool. We had a very modern mill, a very good mill for making structural material, and probably somewhat better than some of the others.

Q. There were some members of this pool, then, that could not produce as cheaply as the Pencoyd and the Carnegie?

A. That is correct, yes.

Q. And the price was made so as to allow a reasonable profit to everybody within this pool, was it?

A. No; those who were not as well equipped, their profit was lower. The profit was considered to be a fair profit on the best mills.

Q. On the best mills?

A. Yes.

Q. Then the others did not get a fair profit, is that it?

A. Yes, a fair profit ranges at no one fixed price or one point; a fair or reasonable profit may extend beyond two points. In other words, it is a line of some length; possibly my views of reasonable profit would not have exactly the same termini as your views of reasonable profit. They can differ in the extent of what would be reasonable profits.

Q. The weakest one in the pool got a fair profit?

A. No, I do not know that it did.

Q. Which one did not get a fair profit?

A. For instance, the Passaic Rolling Mill Company was one of the older mills; the Phoenix Iron Company was one of the elder mills. Whether you would term the fact whether they got a fair profit, it would not be as large a profit as the others.

Q. I understand that; but they got a fair profit, and the others got a larger one than they did, did they?

A. They got not so fair a profit.

Q. Not so fair?

A. Yes, sir.

Q. But it was fair, was it not?

A. Not so fair.

Q. What would you say about it being fair at all?

MR. SEVERANCE: He has answered that question twice.

MR. DICKINSON: He has answered it comparatively.

By MR. DICKINSON:

Q. I want to know if they got a fair profit.

A. If you will tell me what you call a fair profit I will tell you.

Q. If you will tell me what you mean by fair profit, that is exactly what I mean.

A. I say a reasonable return on the capital. They probably had not as much capital invested as some more modern plants, and consequently a smaller profit might be a fair profit to them when it would not have been to the others with their larger capitalization. When you consider that you want to charge off to depreciation the cost of a steel plant every ten years, as in that time it mostly goes in the scrap heap, one which has kept abreast of the changes and made the changes had to spend more money than one who remains in the condition in which he originally started, therefore those who are abreast of the art should have a larger profit to make a reasonable return on their capital invested.

Q. Which one of those was not abreast of the art?

A. The Passaic Rolling Mill Company; the Phoenix Iron Company.

Q. It could not make as cheaply, then, as the Carnegie or the Pencoyd?

A. No. Jones & Laughlin, Carnegie and Pencoyd made over seventy-five per cent. of the product of structural material made in the United States at that period.

Q. And these others did not make as cheaply as you could?

A. I think not; I know they could not.

Q. They could not have competed with you, could they; if you had sold at something above cost to allow you some profit, it would have put them out of business, wouldn't it?

A. No, I think it would put all of us out of business.

Q. You mean to say that if you sold your products at something above cost, allowing you some profit, and that you had a competitor who could not make as cheaply as you did, on the same product, that that would make you go out of business?

A. That depends altogether on what the difference of cost of production between the two concerns would be. A concern can continue to sell at cost and not go out of business. It can continue to sell below cost and not go out of business.

Q. I was putting a case where a concern of superior abilities, who could manufacture cheaper than another concern, should sell at a price that would be above its cost and allow it some profit, and yet below the cost to the other concern, whether that would necessarily put both of them out of business.

A. You have left out a controlling factor there, and without it I cannot answer your question, namely, what the obligations of each of these concerns might be in regard to capital charges. In other words, a concern might make two per cent. above cost and yet have capital obligations in the way of interest on bonds and dividends on stock, the latter, of course, not being obligatory, but the former being so, so that unless you know his interest charges you would be unable to say how soon he would go out of business, although he might have a profit on the material sold over and above the cost of manufacture.

Q. I understood you to say, though, Mr. Roberts, that it would necessarily put both out of business if the superior

concern sold a little above cost and at the same time that was lower than his competitor could make a profit on; do you say that?

A. It would depend altogether upon their obligations.

Q. Then, as a general proposition, you do not say that is universally true?

A. You cannot determine from the statement which you have made whether it is true or not.

Q. I am taking the statement which you made when you said it would put them both out of business; what did you mean by that statement?

A. What statement is that I made?

Q. I put the proposition to you, whether or not, if one concern that could manufacture cheaper than another, could sell at some profit and the price, however, at which it sold was lower than would allow a profit to the other concern, what would be the result, and I understood you to say it would put them both out of business. Now, is that necessarily and universally true?

A. I did not make that statement.

MR. SEVERANCE: May I ask a question about your question so that I will understand it?

MR. DICKINSON: Yes.

MR. SEVERANCE: You say "some profit." Do you mean on some particular line of product?

MR. DICKINSON: Yes, some particular line.

THE WITNESS: The question is a hypothetical one which, in the form it is asked, I am unable to answer.

By MR. DICKINSON:

Q. You did answer, though, a while ago, that it would put them both out of business?

A. No.

Q. What did you have in mind when you said it would put them both out of business?

A. State what it was I said.

(The stenographer repeated the questions and answers as follows:)

"Q. They could not have competed with you, could they,

if you had sold at something above cost to allow you some profit, it would put them out of business, wouldn't it?

"A. No, I think it would put all of us out of business.

"Q. You mean to say that if you sold one of your products at something above cost, allowing you some profit, and that you had a competitor who could not make as cheaply as you did on the same product, that that would put you out of business?

"A. That depends altogether upon what the difference of cost of production between the two concerns would be. A concern can continue to sell at cost and not go out of business. He can continue to sell below cost and not go out of business."

By MR. DICKINSON :

Q. What did you mean when you answered that?

A. From the shape in which the question was put, I interpreted that you meant so narrow a margin between cost and selling price that it would be insufficient in the usual practice to enable them to meet their obligations as to interest on capital.

Q. What was your first acquaintance, if any, with the nail pool and its operations, the wire nail pool?

A. I have no knowledge of it whatever.

Q. Do you feel pretty confident about that?

A. I do, yes.

Q. You have testified with regard to some transactions that were reported in the minutes of specific meetings, on your direct examination, remembering specific meetings, and also what transpired. I am going to see if I can refresh your memory to see if you can recall this. I read from Government Exhibits, Volume III, page 1015, Minutes of the Carnegie Steel Company, Limited, February 18, 1896. (Reading):

"A. R. Whitney to H. C. Frick"—

MR. SEVERANCE: I object to this as an improper way of refreshing the recollection of the witness, the same purporting to be a letter written by an individual not a party to this action at a date long prior, to wit, about five years, to the organization of the defendant corporation, presented at a meeting of a

corporation of which the witness was not a member, and at which he was not present. The same is incompetent and hearsay, irrelevant and not cross examination, for the reason that upon direct examination no question was asked the witness relative to any wire pool.

MR. DICKINSON: But questions were asked as to pools and the effect and operation of pools, in the testimony given by Mr. Walker.

I will read, and see if this refreshes your recollection.

"Mr. Carnegie requested me to work up a pool on beams. Mr. Fayerweather, who has been persistently calling to see if something could not be done, called in and I said to him that something might be done if he would call a meeting, and that if he would call a meeting, I would attend it. He called a meeting at 1:00 o'clock today, and there were present: Mr. Bedell for the New Jersey Steel & Iron Company; Mr. Watts Cook and Mr. Fayerweather for the Passaic Rolling Mill Company; Mr. Percy Roberts for Pencoyd; and a Mr. Reeves for Phoenix; and Mr. Atkins for Pottsville."

Do you recall that meeting?

A. What date is that?

Q. This letter was written at New York, February 12, 1896.

MR. SEVERANCE: It does not say so.

MR. DICKINSON: It is in the minutes, reported at a meeting, and it says February 12.

THE WITNESS: I think I recall such a meeting, yes.

By MR. DICKINSON:

Q. (Continuing) He goes on:

"I explained to these people the workings of the wire nail pool and said nothing more."

Do you recall that explanation?

A. No.

Q. You have forgotten about that, have you?

A. I have, and I would not have recalled the other meeting if you had not read it there and said that I was present. That brought it to my mind.

Q. I did not say you were present; the letter says you were present. I do not know whether you were or not.

MR. SEVERANCE: I should suggest that you permit him to finish his statement. What were you going to say, Mr. Roberts?

THE WITNESS: I say that after hearing that letter read I have a hazy recollection of such a meeting, but as to what took place at it I could not at this time recall.

By MR. DICKINSON:

Q. (Continuing) He goes on:

"I explained to these people the workings of the Wire Nail Pool and said nothing more. A motion was made to appoint a committee of five to formulate a plan to improve the condition of the beam business, and the committee appointed consists of Mr. Bedell of the New Jersey Steel & Iron Company, Mr. Watts Cook of Passaic, Mr. Percy Roberts of Pen-coyd, and Mr. Reeves of Phoenix; also a representative to be appointed by the Carnegie Steel Company, Limited, and Mr. Bedell is to call a meeting, and you can appoint a representative to attend it if it meets your approval.

"After that was passed a proposition was made that we have an understanding that no beams should be sold in New York or Philadelphia for less than 1½ cents per pound for 15" and smaller, nothing said about 20" and 24.""

THE WITNESS: Is that in the letter?

Q. (Continuing) that is all in the letter I read you.

"and the list of extras adopted last September should be adhered to.

"These were the minimum prices and that arrangement was signed by everybody present and will be sent to Jones & Laughlins tonight, and you can see them in regard to it, if you choose. I signed it with the understanding that it was not binding after I had ascertained that price had been cut, and for New York only.

"To-morrow I shall cover all our customers on any estimates they have out at the 1.40 prices, and notify them to base their estimates on 1.50 in the future."

A. Surely a Carnegie practice.

By MR. DICKINSON:

Q. "Mr. Roberts said he would see that J. Ogden Hoffman signed the agreement for you at Philadelphia."

Now, do you remember your signing this agreement referred to here?

A. No, I do not; my recollection is that the prices through the year 1896 were open prices, and the formation of the beam pool was on January 1st, 1897. There may have been some temporary arrangement or agreement of that character at about that time, but I have no recollection of it.

Q. You say "open prices." What do you mean by open prices?

A. No understanding whatever as to prices.

Q. Now, did you get Mr. J. Ogden Hoffman to sign this agreement?

A. I do not recall.

Q. Who is he?

A. He is dead.

Q. Who was he?

A. He was the representative of the Carnegie interests in Philadelphia.

Q. The representative of the Carnegie interests?

A. Yes.

Q. And you were to get the representative of the Carnegie interests, according to this, to sign the agreement?

A. According to what you have read, yes.

Q. I will read you, and ask if you have any recollection of this statement appearing on page 1020 of the same volume, under the minutes of March 3, 1896:

"Mr. Frick"—

MR. SEVERANCE: I object to this as wholly improper cross examination, as the paper counsel is about to read from purports to be the minutes of a corporation on March 5, 1896, of which corporation the witness was not a member, and at the meeting of which he was not present, and the same is likewise objectionable as not cross examination, and irrelevant.

By MR. DICKINSON:

Q. (Reading:)

"Mr. Frick: A. R. Whitney is an important factor in this matter, and as he will be South, we can probably arrange a

postponement of the meeting. Prices have already advanced as the result of the preliminary meetings.

“Mr. Peacock: Yes, and it looks now as if Phoenix, Pencoyd and ourselves will agree on prices without any pool.”

Can you state anything from your recollection, after reading this, in regard to these preliminary meetings, or whether there was any arrangement or understanding as to whether or not the Phoenix, the Pencoyd and the Carnegie did agree on prices with or without a pool?

MR. SEVERANCE: I make the same objection, and I add to it the fact that this meeting was long anterior to the organization of the defendant, the United States Steel Corporation.

THE WITNESS: I do not now recall.

By MR. DICKINSON:

Q. I ask whether or not this refreshes your recollection, and whether you know anything about these facts in connection with the prices of beams; at page 1017, the same volume——

MR. SEVERANCE: I object to this as improper cross examination——

MR. DICKINSON: Suppose you just repeat the same objection.

MR. SEVERANCE: Yes, I will do that; the same objection as to the last two preceding questions.

By MR. DICKINSON:

Q. (Reading:)

“Mr. Frick: The Board appears to be unanimously in favor of forming some combination on beams”——

A. What date is that?

Q. The date was the same meeting, February 18, 1896.

“The Board appears to be unanimously in favor of forming some combination on beams, providing, however, that the advance in price shall not be to a point which will permit foreign beams to come in or will encourage the smaller mills to begin or resume the manufacture of beams.”

Have you any recollection now——

MR. SEVERANCE: Do you want to read those next four or five words, Judge?

By MR. DICKINSON:

Q. (Reading:) "To this there was no dissent." Do you know what smaller mills then had stopped the manufacture?

A. I have not any idea in my mind to what that referred.

Q. Have you any recollection regarding the facts here stated?

A. No, I have not.

MR. SEVERANCE: How could he? He was not at the meeting.

MR. DICKINSON: I am not asking him as having been at the meeting, but I am asking if he, on account of his association with these negotiations of the beam pool, has any recollection or knowledge of the facts there stated. I thought the witness understood that. Of course Mr. Roberts was not there.

By MR. DICKINSON:

Q. Do you remember whether or not, prior to September 8, 1896, there had been a beam pool, during the pendency of which there had been considerable price cutting?

A. Whether there had been a beam pool prior to what date?

Q. September 8, 1896.

A. Oh, yes; there had been beam pools as far back as the eighties.

Q. But the question is, whether or not you remember that next preceding September 8, 1896, I will put it that way, there had been in existence a beam pool to which you were a party and under which some of the parties to it had been cutting prices prior to that time.

A. I could not say. I know there was an open market in November, 1896.

Q. I will see if this refreshes your memory, and ask you what recollection you have about it; page 1037 of the meeting of September 8, 1896.

MR. SEVERANCE: Of the Carnegie Steel Company, Limited?

MR. DICKINSON: Yes, the same thing.

MR. SEVERANCE: I object to that on the same grounds, and in addition call attention to the fact that the corporation named, to wit, the Carnegie Steel Company, Limited, is not a party to this cause.

By MR. DICKINSON:

Q. (Reading:)

"Mr. Peacock: Our order mail keeps up well, but new business is light. The Eastern beam manufacturers are not holding prices; that is, they are not cutting the nominal beam price, but are throwing in extras. They are taking contracts for buildings with erection below cost. At the 1.7 cent price we are losing business. Whitney thinks we should make the price 1.5, but I think we should go at once to 1.3, then there could be no cutting.

"Mr. Leishman: Whitney wants a meeting called for next week, but I told him to wait a little. The architects have plans in hand for buildings requiring about 25,000 tons for this year, and we would like to get some of this before calling a meeting and making an open cut in price.

"Mr. Frick: If it does not affect the price of beams already sold, I think we should not lose any business in New York because of the price.

"Mr. Leishman: The price on contracts already made would not be changed.

"Mr. Frick: It appears to be the sense of the board that we should secure this 25,000 tons, cutting to 1.3c. if necessary."

Now, do you recall anything about that cutting of price?

MR. SEVERANCE: I make the same objection.

A. I do not, but from the reading of these letters it would seem to me that during a portion of 1896, at least, there was some understanding as to prices in beams.

By MR. DICKINSON:

Q. Was the Pencoyd a party to that understanding?

A. I should think if the others were they were. I have no distinct recollection, but it sounds very much that way. The letter you just read, Mr. Peacock was not a good

prophet, though, because 1.3 did not stop the competition, but one cent a pound did.

MR. COLTON: I think if he went on he could refresh your recollection.

By MR. DICKINSON:

Q. What date did you speak of where you spoke of that price?

A. November, 1896.

Q. What was the price then?

A. One cent a pound delivered in New York .

Q. How long did that price prevail?

A. For probably sixty days.

Q. How near was that to the cost of production of the Carnegie Company?

A. Why, it was below cost.

Q. Below the cost to the Carnegie Company?

A. Below the cost to anybody.

Q. How many people went out of business on account of it?

A. If it lasted long enough we all would go.

Q. How many did go out?

A. None.

Q. And the Carnegie reduced the price below the cost?

A. Yes. I think Carnegie made cheaper beams than anybody.

Q. And still nobody went out of business?

A. They did not.

Q. And then they got together and formed a renewal of the pool?

A. On January 1st they formed a beam pool. It was not a renewal.

Q. Then the price went up, did it not?

A. Yes. I think probably it went to about a cent and a half a pound.

Q. How long did it stay at that?

A. I could not tell you offhand. The chart will show that.

Q. What chart?

A. The one we had in evidence yesterday.

Q. The Walker chart?

A. The Walker chart shows the price of beams as given in the Iron Age at Pittsburgh.

Q. Mr. Roberts, you were questioned in regard to technical improvements in the steel industry in the latter half of the decade preceding the year 1900, and I understood you to say that there was no special technical improvement during that time. Is that a correct statement of your answer?

A. I did not express myself in quite that way.

Q. I am going to ask you, rather than turn back to the testimony, I would ask you what you mean by technical improvements in that connection. You did give testimony in regard to technical improvements in the steel business during that period. What would you call a technical improvement in the sense in which you were questioned and answered?

A. I think I spoke of certain revolutions and changes in the process of manufacture from iron to steel and from acid steel to basic steel, and the driving of machinery by electricity instead of steam, all of which I stated occurred prior to the year 1890. There are technical improvements of course in detail which are going on all the time, every day, and have gone on since the beginning of the industry and are continuing. I said as to the year 1895 the only change which had occurred at that time was the introduction of Mesabi ore.

Q. Do you call that a technical improvement?

A. No.

Q. The steel is the result, is it not, of extracting and utilizing ores in connection with certain machinery, isn't it, and other constituents that are put with the ores?

A. The ores are charged with coke and limestone into a blast furnace and the resultant product is pig iron.

Q. The Mesabi ores prior to 1895 had not been in very large use, had they?

A. They were practically not used at all; they were practically undiscovered.

Q. That is what I understood you to say.

A. Yes.

Q. Afterwards they began to be used more?

A. They did, from year to year.

Q. Why were they used more; at first were they adaptable or thought to be adaptable economically?

A. When the ore was first introduced, due to its physical condition, it being very fine, almost like powder, the blast furnace engineers were fearful that by its use they would clog their furnaces and they therefore were willing to use it in their burden only to a limited extent. As they became more familiar with it and gradually increased it, in some cases increasing the pressure of their blast, they found that they could increase its use and they did so.

Q. Did they find that by using more coke and a large proportion of coke they could utilize it more economically than they had before?

A. No.

Q. Then tell us, please, what were the things that changed that from non-profitable to a profitable use.

A. That was never a non-profitable use.

Q. Then to a more profitable use.

A. Not a more profitable use, as I understand.

Q. Well, a more economical availability.

A. It was not that.

Q. Well, just tell it; I have tried to find something that would hit your ideas. Please tell us what it was, exactly.

A. I am trying to tell you.

Q. All right; go ahead.

A. In former times most of the ore was of a compact, stony nature.

Q. You mean the Old Range ores?

A. The Old Range ores.

With those Old Range ores they mixed a certain percentage of softer ores, and this was their regular practice. Upon the introduction of the Mesabi ore they found an ore, as I have just said, of different physical characteristics; it was very fine, and they were fearful if they used it in too large a percentage that they would clog their furnaces, and they therefore commenced using it as a very small percentage of their charge. As they got more confidence in this ore and knew its characteristics and operations, and by some slight increase in the pressure of their blast, they overcame those difficulties

and found that they could successfully use it to a very large percentage of their burden.

Q. Up to fifty per cent.?

A. Yes. I think that they used it at more than fifty per cent.

Q. When did they find out they could do that?

A. It was a gradual evolution extending over a period of probably five, six or seven years.

Q. Beginning when?

A. About 1895.

Q. And becoming more and more developed?

A. Oh, yes, ever since.

Q. Now, you would not call that a technical development?

A. No, sir.

Q. Was it an important factor in the production of steel and the cost of the production of steel and steel products in the last half of that decade?

A. No.

Q. It had no effect upon the cost of steel, the reduction of cost to those who were supplied with other ores?

A. To those who were supplied with other ores, no.

Q. To those who used that ore, did it make the production of steel less expensive?

A. It would depend upon what price they paid for that ore in relation to the prices they paid for the other ore.

Q. Take the prices that they were paying for that ore from 1895 on, as compared with prices they were paying for other ores which this ore by an increase of percentage supplanted, and state whether or not that increased substitution of the Mesabi ores increased the cost of steel and steel products?

A. No, I do not think it did.

Q. Was the Mesabi ore less or more expensive to mine?

A. At first, in the very early stages, it was cheaper.

Q. What stage is that?

A. The very early stage, when it was at the surface of the ground.

Q. When was that?

A. That was in the year 1895.

Q. And how long did that continue?

A. I could not say; it would depend on different mines.

Q. Mr. Roberts, don't you know that the Mesabi ores from 1895 have been mined cheaper than the other ores in the Lake Superior region down through the last half of the decade of which we were speaking and continuing into the next decade?

A. That would depend on what you mean by other ores. As a general proposition the Mesabi ore was a steam shovel proposition, and at first was mined cheaper.

Q. What ores were used mainly by the Carnegie Company before 1895 in the production of steel?

A. Back to what period?

Q. Beginning with 1894, in 1894.

A. Lake Superior ores.

Q. What kinds?

A. Various kinds; I could not give you a detailed list of the mines.

Q. No, but can you tell what the names were?

A. No, I could not.

Q. Can you tell anything about it at all?

A. Lake Superior ores; that is all I can say to you.

Q. Were they Old Range ores?

A. Undoubtedly.

Q. Do you know what proportion of Old Range?

A. I do not know.

Q. Were they Vermillion ores?

A. Possibly.

Q. Do you know what proportion of Vermillion ores?

A. No; probably those proportions varied from day to day and from month to month.

Q. Do you know when the Carnegie Company began to use Mesabi ores?

A. They were among the first, I think.

Q. But do you know when they began?

A. About 1895.

Q. Do you know that as a fact?

A. I think so, because I think you will find no Mesabi ore was shipped before 1894, probably.

Q. Take the Mesabi ores that they used, beginning in 1895,

down to the year 1900; do you say that those ores were not cheaper to the Carnegie Company than the other ores that they had been using prior to that time, and the other ores of different kinds that they used during that time?

A. I really do not know anything about it, unless I know what the cost of the other ores were to the Carnegie Steel Company.

Q. You do not know anything about the cost?

A. No, I do not.

Q. Do you know anything about the cost of Mesabi ores to them, from 1895 to 1900?

A. I do not.

Q. Do you know anything about what it cost them to make steel in 1894?

A. The Carnegie Steel Company?

Q. Yes.

A. Yes, I think I do.

Q. What did it cost them to make steel in 1894?

A. I can not give it in detail. I knew at the time.

Q. Was it profitable or unprofitable?

A. In 1894?

Q. Yes.

A. Profitable.

Q. Was it more profitable in 1894 than it was in 1895, or less?

A. I could not answer that.

Q. How about 1894 and 1896?

A. 1896 was somewhat of a lean year.

Q. A lean year in ores?

A. A lean year in prices.

Q. Well, but how about the cost of production? Was it a lean year in that?

MR. SEVERANCE: What do you mean by that?

MR. DICKINSON: I mean the cost of making steel in that year, as compared with 1894. He said it was a lean year, and he said as to prices.

By MR. DICKINSON:

Q. (Continuing) I want to know if you meant that lean

year to indicate anything in regard to the relative costs of making steel in those two years.

A. Well, I think it was the last year of the Democratic administration, and wages were pretty low that year.

Q. Well, was the cost then of steel lower or higher?

A. Wages lower, the cost of making steel necessarily would be lower.

Q. How about the cost of ore, as between the Mesabi and the Old Range ores for that year?

A. In those days the selling price of Mesabi ore was lower than the selling price of the Old Range ores.

Q. Now, you spoke of the wages in 1896. Do you know whether the Carnegie paid lower in 1896 than they did in 1894, of your own knowledge?

A. I cannot give the dates of changes in wages, but I know that they were having some pretty hard sledding about that year.

Q. Were wages any different during that year for mining Mesabi ore than for mining Old Range ores?

A. Yes; I think the wages on the Mesabi range would be less than the Old Ranges.

Q. Were you on the Mesabi range during that year?

A. I was not.

Q. Do you know what the wages were?

A. I do not.

Q. Were you on the Old Range that year?

A. I was not.

Q. Do you know what the wages were there?

A. I do not.

Q. Do you know anything about the different conditions that prevailed in respective sections at that time?

A. Yes.

Q. What were the differences, if any?

A. The Mesabi range was simply digging earth off the surface of the ground, sometimes with a steam shovel, whereas many of the Old Range mines were deep mines and carried on by mining operations under ground. One had to be handled with a competent miner, and the other by any one who could

handle a pick and shovel; naturally the cost of the Mesabi production was less than that of the Old Range.

Q. It was less?

A. Yes.

MR. SEVERANCE: He said it was less.

MR. DICKINSON: I didn't understand him.

MR. SEVERANCE: Yes, he said that several times.

By MR. DICKINSON:

Q. I will go back to this proposition, whether or not you know that the cost of production of steel from 1895 to 1900, as compared with 1894, was lessened by the increased use of Mesabi ores.

A. I should say not.

Q. You say it was not?

A. To any appreciable extent.

Q. You do not know what they paid for either, do you?

A. I do not, because I do not know whether they owned their ores or bought them.

Q. Do you know what price the Mesabi ore was at any period of that time?

A. In the open market?

Q. Yes.

A. No, I do not recollect at this time.

Q. Did you ever run any furnaces?

A. At that time?

Q. Yes.

A. No.

Q. Did you buy any ores?

A. Yes.

Q. For what purpose?

A. Open hearth steel making.

Q. In what quantity.

A. I could not give you offhand the tonnage.

Q. About how much tonnage for the year?

A. I could not say.

Q. Can you approximate it at all?

A. No, it would vary, depending upon the nature of the output.

Q. Did you buy any Mesabi ore during that time?

A. No; they were not used for the purpose, could not be used.

Q. What ores did you buy?

A. Largely Port Henry, New York.

Q. Did you buy any from the Lake Superior region?

A. I think at that time we had some of the hard ores, yes.

Q. Do you know that you did?

A. Yes, sir; I think we did.

Q. Where were they from?

A. I could not tell you now. I do not remember.

Q. Do you remember whether they were Old Range or Vermillion?

A. They would be Old Range ores.

Q. Do you know the price you paid for them?

A. I do not.

Q. Mr. Roberts, was the development and use of the Mesabi ore during the years 1895 to 1900, inclusive, to the extent that it was developed and used an important factor in the steel industry?

A. To the extent that it enlarged our ore supply, it was, yes.

Q. Did it have any material bearing upon lessening the cost of the production of steel during that period?

A. Not appreciably during that period.

Q. Did it appreciably during any period?

A. Yes. I think that it has——

Q. When?

A. It had some bearing on costs after the practice was fully developed so that the maximum quantity could be used, which has taken place since probably 1900 or 1901.

Q. Do you mean after it began to be used as a larger source of supply that it did affect the cost?

A. I think so, yes.

Q. And cheapened it?

A. I think it did, yes, to those who had bought it at the original low values which were placed on those properties; just in proportion as they found that they could use a larger burden of that ore the price of that ore appreciated in value

very materially. Now it would depend entirely as to how much it reduced the cost to manufacture to know the values at which its owners used it in their furnaces.

Q. When did it reach the point of consumption where the percentage of combination was such as to appreciably affect the cost of production of steel, what year?

A. I think I said probably along in 1901 and 1902. There was no definite period of time that I can put my finger on, because one man with his facilities probably was using a larger burden than another man who had not the same facilities.

Q. And before that the proportion of use was so small that it did not materially affect the cost of steel. Is that your idea?

A. It did not materially affect the cost.

Q. What percentage had to be reached, under your conception of the matter, before it did materially reduce the cost of steel? What percentage in combination, I mean?

A. 60 or 70 per cent., somewhere.

Q. 60 to 70.

A. Say 50 to 60.

Q. 70 per cent. would materially reduce it, or not?

A. Yes, I think it would.

Q. Would 60 per cent. materially reduce it, or not?

A. It would reduce it less materially than 70.

Q. Would 50 per cent. materially affect the cost of steel?

A. Depending on the relative values.

Q. All other conditions being the same, now; I am dealing with percentages, and all other conditions being the same——

A. No, you cannot, unless you know the prices.

Q. But you did not ask anything about prices when you spoke of 70 per cent. and 60 per cent.?

A. Well, we are getting down now to a smaller percentage, and I say, from what I know of the situation, that 70 per cent. would reduce the cost, and so would 60 per cent.; when you get to 50 per cent. you are beginning to get so near the balance that you must know——

Q. You are not so sure about 50 per cent.?

A. No. Price plays an element there.

Q. What amount of Mesabi ore was used in 1904, what tonnage?

A. I could not give you the tonnage. It is a public record.

Q. What tonnage was used in 1905?

A. An increase in tonnage over 1904.

Q. Materially or not?

A. Well, it was increasing constantly from the start.

Q. When did it get to a point that it appreciably affected, in comparison with the amount of other ores used, the amount of steel production?

A. I said when it reached about 50 per cent. to 60 per cent.

Q. That was the proportion of mixture, but I mean——

A. That would be the proportion of shipments, too.

Q. We were speaking about the particular manufacture and its proportion or mixture.

A. That would hold good for shipments.

Q. But there might be fifty per cent. of the whole amount shipped, and some might use it in different proportions than others, might they not?

A. Yes, and they undoubtedly did.

Q. Have you any idea of the amount of Mesabi ores that were consumed in the year 1899?

A. No.

Q. Or 1898?

A. The statistics of the American Iron & Steel Association will give that very fully.

Q. Yes, I know, but I would like to know what you know about it.

A. No, I cannot state.

Q. Those statistics are very good, but——

A. Those figures are beyond me.

Q. Can you give anything approximating it?

A. No; I really cannot.

Q. Can you come within 500,000 tons?

A. No.

Q. For any one of those years?

MR. SEVERANCE: I object. It seems to me that is a great waste of time. The witness says he does not know, and you have established his ignorance, and I think you should be satisfied.

MR. DICKINSON: I do not think I am wasting time.

By MR. DICKINSON :

Q. Well, would or not the use of a million tons of Mesabi ore in the United States in the year 1897 have materially affected the cost of the production of steel?

A. I do not know.

Q. How about two millions of tons?

A. I do not know.

Q. How about three millions?

A. Without inserting prices, I could not tell you.

Q. Assuming that the prices were as low then as they have been since the United States Steel Corporation was formed.

MR. SEVERANCE: I object to that question.

MR. DICKINSON: I am trying to meet Mr. Roberts' objections and want to give him a price that he can assume.

MR. SEVERANCE: Have you finished your question, Judge?

MR. DICKINSON: Yes.

MR. SEVERANCE: I object to that as asking for a conclusion and not cross examination and irrelevant.

(The question was repeated as above recorded.)

MR. SEVERANCE: I make that same objection. The vice in the question consists not wholly in the last question, but in the preceding questions which I did not object to, simply because I thought they would only be asked once, but as apparently it is intended to ask them over and over again, I think it is time to make the objection.

(The question was again read as above recorded.)

THE WITNESS: What prices?

By MR. DICKINSON :

Q. The prices of Mesabi ore.

MR. SEVERANCE: The same objection.

THE WITNESS: The hypothetical question is so incomplete that it would be impossible for me to answer it.

By MR. DICKINSON :

Q. Well, Mr. Roberts, can you give approximately the amount of Mesabi ore used in the United States for any year prior to 1901?

A. No, sir.

Q. Take the year 1897.

MR. SEVERANCE: I object to that as a repetition over and over again. He has answered as to each year.

MR. DICKINSON: This will be a little variation.

By MR. DICKINSON:

Q. Take the year 1897. Can you state whether it was nearer 1,000,000 or nearer 5,000,000?

MR. SEVERANCE: I make the same objection that I made to the last question; it is not cross examination; immaterial and irrelevant.

By MR. DICKINSON:

Q. Take any of the years prior to 1900. Can you state whether the amount used for such year was nearer 1,000,000 or 5,000,000?

MR. SEVERANCE: I make the same objection.

THE WITNESS: I have already stated that I have no figures whatever in that respect in my mind.

By MR. DICKINSON:

Q. Can you state for either one of those years whether or not the production of ore from the Mesabi Range equalled or exceeded the production from all of the other ore fields of the Lake Superior region?

MR. SEVERANCE: I make the same objection.

THE WITNESS: Which years?

By MR. DICKINSON:

Q. Any of those years?

A. Which year?

Q. From 1895 up to 1900, inclusive.

MR. SEVERANCE: I make the same objection.

THE WITNESS: No. During that period the Mesabi output was increasing much more rapidly than the output of the other districts, however.

By MR. DICKINSON:

Q. Mr. Roberts, I have questioned you somewhat on this

subject, but I have not had time to go over the testimony. I am not clear. I would like to ask you whether or not you have ever heard of such a thing as a base price for 15-inch beams or a base price for beams at all?

A. I think I said yesterday that what were known as regular sizes of beams were those between three and fifteen inches; that for beams more than fifteen inches in depth up to and including 24 inches, we had a higher price than those between three and fifteen inches.

Q. Yes, but what I want to know is whether you understood in the trade that there was a term used such as base price for 15-inch beams or base price in connection with beams at all.

A. Not during my active connection with the business. If that term "base price" has been introduced since then, it may have been, but we spoke of regular sizes from three to fifteen inches, and those over fifteen inches were an extra price.

Q. Did you ever hear of such a term as combination prices, which were figured by using a base price for 15-inch beams, and then the other extras being added to that, the extra elements of cost?

A. We had a combination price which was based upon the price of plain beams plus such work as might be done upon them in the way of punching, riveting, fittings, and so on.

Q. You did, then, have such a price for beams?

A. Plain beams. Plain beams carry certain extras in the way of punching, fitting and riveting, and there was one-tenth of a cent a pound for punching, and one-tenth of a cent a pound for riveting, which was added to the price of the plain beams.

Q. And whether you knew it as a base price or not, there was such a price?

A. There was a price for plain beams, yes. That price was then taken and these extras added to it for the various work done upon it.

Q. Plain beams of certain sizes?

A. Plain beams were sizes between three and fifteen inches.

Q. Mr. Roberts, state, if you know, approximately what it cost to produce rails from pig iron in April, 1897.

A. I would not venture a guess.

Q. How about 1898?

A. It would depend with each establishment upon a number of conditions with which I would not be familiar at this time at all.

Q. Would your answer be that as to all subsequent years?

A. Yes.

Q. What was the cost of producing billets in the year 1897?

A. You are speaking now of an average cost in the United States, I suppose?

Q. Well, say of such a concern as the Carnegie.

A. What year?

Q. 1897.

A. I cannot give you the figure.

Q. Can you give any approximation of it?

A. No.

Q. Can you give any approximation of it for any subsequent year?

A. No.

Q. What was the cost of making rails from pig iron by the Carnegie in 1897?

MR. SEVERANCE: You have already asked that question and he says he don't know.

THE WITNESSS I don't know.

MR. DICKINSON: Yes, I have asked that. It is a repetition.

By MR. DICKINSON:

Q. Do you know what the comparative cost of production to the Carnegie Company in 1897 was, as compared with previous years of that decade?

A. I do not, Judge Dickinson, no.

Q. Do you know whether it was less to the Carnegie Company in 1897 than it ever had been before?

A. I do not know.

Q. What do you understand by the term "conversion costs, pig iron to rails"?

A. It would depend somewhat upon the context, how it was used. It might include——

Q. Do not use any context at all; I am giving you the whole context.

A. But I want to know what conversion includes; that is all.

Q. From pig iron to rails.

A. Yes, but does it include overhead charges and depreciation?

Q. Assume that it includes everything, now; overhead charges and everything else.

A. There is not a universal practice in that respect. To illustrate what I mean, there were some letters written at one time as to the cost of manufacture of steel rails to the Carnegie Steel Company. That was only a partial and not a complete analysis of the subject. Now, in that instance they used "conversion" to mean simply the cost of manufacture, including labor, repairs and the ordinary running of the plant.

Q. You mean from pig iron?

A. From whatever point they took it at. On the other hand, complete conversion cost would allow for depreciation, interest charges, overhead charges, etc.; therefore, I was unable to give you a definite answer.

Q. I will ask you this question: Letting the term "conversion cost" include everything, and taking the conversion from pig iron to rails, would you say that \$4.50 was a reasonable cost?

A. From pig iron to rails?

Q. Yes.

MR. SEVERANCE: What period do you mean?

MR. DICKINSON: 1897; that is the year I spoke of.

THE WITNESS: For whom?

By MR. DICKINSON:

Q. The Carnegie Company.

A. How much?

Q. \$4.50 was the figure I gave you.

A. \$4.50 from pig iron to rails?

Q. Yes.

MR. SEVERANCE: I object to that as incompetent, not cross examination, and irrelevant.

By MR. DICKINSON:

Q. What would you say?

A. I should say it was too low.

Y. You say it was low?

A. Too low.

Q. How about \$4.70?

MR. SEVERANCE: I make the same objection.

MR. DICKINSON: He seems to have some idea on the subject.

MR. SEVERANCE: He undoubtedly has a great many ideas on the subject, but that does not make it relevant testimony, or cross examination.

MR. DICKINSON: He is smiling now; I think he is going to give us something good on that.

By MR. DICKINSON:

Q. How about \$4.70?

A. If you want to see me smile, just get through.

MR. SEVERANCE: He has one leg on the steamer, and he wants to get the other one on.

By MR. DICKINSON:

Q. How about \$4.70?

A. That is less low than \$4.50.

Q. Would it be reasonable?

A. No; I think that is too low.

Q. How about \$5.00?

MR. SEVERANCE: I make the same objection.

THE WITNESS: Using "conversion" in the sense of what?

By MR. DICKINSON:

Q. Including overhead charges, everything.

MR. SEVERANCE: And depreciation.

THE WITNESS: Entirely too low.

By MR. DICKINSON:

Q. Do you know the cost at any time to the Carnegie of the manufacture of any of its products?

A. Not from examination of their books I do not, no. I have seen their costs of manufacture after they came into the Steel Corporation, but not previous thereto.

Q. Previous to that you do not know anything about the cost, do you, to the Carnegie Company of any of their products?

MR. SEVERANCE: I object to that as not cross examination; and it is irrelevant.

MR. DICKINSON: I think you will see the relevancy of it later.

By MR. DICKINSON:

Q. How about that?

A. What was the question?

(The stenographer repeated the pending question.)

THE WITNESS: Not in actual dollars and cents.

By MR. DICKINSON:

Q. Do you know what figure approximately would represent the cost to the Carnegie Company at any period prior to 1900 of any product made by it?

MR. SEVERANCE: The same objection.

THE WITNESS: The same answer as to the preceding question.

By MR. DICKINSON:

Q. How about the Illinois Steel Company?

MR. SEVERANCE: The same objection.

THE WITNESS: The same answer.

By MR. DICKINSON:

Q. Can you give us any information at all on that subject?

A. Not in dollars and cents.

Q. Can you give it approximately?

MR. SEVERANCE: The same objection.

THE WITNESS: No.

By MR. DICKINSON:

Q. Do you know anything about it, the cost of any of the products of either the Carnegie or the Illinois prior to 1900?

MR. SEVERANCE: The same objection.

THE WITNESS: Not in dollars and cents.

By MR. DICKINSON:

Q. What do you mean by dollars and cents; you mean actual dollars and actual cents?

A. Yes.

Q. Can you give it in round dollars or can you give it approximately in dollars and cents?

MR. SEVERANCE: The same objection.

THE WITNESS: No.

By MR. DICKINSON:

Q. You did have experience in the cost of beams, did you not?

A. I did.

Q. In 1897, what would be the reasonable cost to your company for the production of beams per pound?

MR. SEVERANCE: I object to that as not cross examination and as irrelevant.

THE WITNESS: Making an approximation, probably a cent a pound.

MR. SEVERANCE: Is the cost in that case intended to include overhead charges and depreciation?

THE WITNESS: No; that is on the basis of mill cost.

Q. I believe I asked you the cost of production of rails to the Carnegie Company and the Illinois Company in 1897 and 1898, and you said you could not approximate it. Can you approximate the cost at that time of the production of rails by any of the competitors of either of those companies?

MR. SEVERANCE: I enter the same objection.

THE WITNESS: No, sir.

By MR. DICKINSON:

Q. Do you know whether or not the Carnegie Company made a profit in their sale of rails in 1897?

MR. SEVERANCE: I object to that as not cross examination and as irrelevant.

THE WITNESS: I do not.

By MR. DICKINSON :

Q. And in 1898?

MR. SEVERANCE : The same objection.

THE WITNESS : I do not.

By MR. DICKINSON :

Q. And the Illinois Steel?

MR. SEVERANCE : Same objection.

THE WITNESS : I do not.

MR. DICKINSON : You think that is not cross examination?

MR. SEVERANCE : That is what I said.

MR. DICKINSON : I think I will justify it then.

By MR. DICKINSON :

Q. You were asked on page 9310: "How were prices in 1897 and 1898 as compared with any other years in the history of the industry, so far as you know it?"

"A. In certain lines, such as rails, they were lower than they had ever been before, and much below the cost of manufacture."

A. My last answer referred to the annual profits. It did not refer to the selling price of a portion of the outputs of those two concerns.

Q. So when you said that in certain lines, such as rails, they were lower than they had ever been before, and much below the cost of manufacture, you did not refer to rails as being below the cost of manufacture; is that correct?

A. Yes; that statement that I made was a perfectly correct one. They were below, and much below the cost of manufacture.

Q. Rails were?

A. Yes.

Q. But you do not know what it cost to manufacture them?

A. Exactly in dollars and cents, no.

Q. You cannot give any idea or any approximation of it?

A. No.

Q. Were you in the employ of the Carnegie Company at that time?

A. I was not.

Q. Or the National Steel Company at that time?

A. I was not.

Q. Or the Illinois Company at that time?

A. I was not.

Q. Were you making any rails at that time?

A. I was not.

Q. Were you selling any rails at that time?

A. I was not.

Q. Were you buying any rails at that time?

A. I was not.

Q. You have just said you never saw the books of either the Illinois or the Carnegie Company during that period?

A. I do.

Q. Do you undertake to say of your own knowledge that you know that in 1897 and 1898 the rails were sold below the cost of manufacture?

A. I do.

Q. On what do you base that statement?

A. On my knowledge.

Q. What knowledge? How did you get it?

A. The knowledge which comes to a man who is in the iron and steel business. Although he may be in allied lines, he knows perfectly well what costs are to produce certain results.

Q. And when did this knowledge come to you?

A. It came to me at that time.

Q. At that period?

A. Yes.

Q. At that period you say that you knew, although you did not know the cost of production, that the Carnegie Company and the Illinois Company were selling rails below the cost of manufacture.

MR. SEVERANCE: I object to that question on the specific ground that it does not correctly state what the witness has said. The witness does not state that he did not know the cost at that time. He said he cannot now state the costs, and I object to it as highly improper for that reason.

By MR. DICKINSON:

Q. Have you ever said that you knew the cost at that time?

A. I have.

Q. During the course of this examination.

A. I think so.

MR. SEVERANCE: It is implied in the answer you read.

By MR. DICKINSON:

Q. Did you have access to the Carnegie books?

A. No.

Q. Or the National?

A. I did not.

Q. Or the Illinois?

A. I did not.

Q. And yet you say that you knew the cost to those several companies at that time for rails?

A. Very closely.

Q. And you cannot give any approximation of it now?

A. At this time, no.

Q. If you did not have access to the books of the company did you know the cost of other products at that time than rails, made by the Carnegie Company and the Illinois and the National?

A. More or less so.

Q. Was there any relation between the cost of these other products and the cost of rails?

A. In some there were and some there were not.

Q. What were they as to which a relationship existed?

A. I do not understand your question.

Q. Well, you said some there were and some were not.

If you understood your answer just explain it.

A. The cost of rails is based upon the cost of pig iron. The cost of other finished products would be based upon the cost of pig iron and in some instances on the cost of the blooms or billets.

Q. Are not rails based at all on the cost of ingots?

A. No. The foundation for rails would be pig iron.

Q. How about billets. What is the foundation of billets?

A. The foundation for billets would be pig iron also.

Q. Then they go to a common source, do they, for a foundation?

A. Billets and rails, yes, pig iron.

Q. And is there a relation between them then in that way?

A. No; none whatever. They would be made in an entirely different manner.

Q. They are made in an entirely different manner, but about cost?

A. No; there is no relation.

Q. Certainly the base of cost enters largely into both, if pig iron is the base of each.

A. If you stop right there.

Q. Is that a large part of it?

A. Pig iron?

Q. Yes.

A. Yes; 40 per cent. Something like that.

MR. DICKINSON: That is all.

RE-DIRECT EXAMINATION,

By MR. SEVERANCE:

Q. Mr. Roberts, two or three questions. You said something about certain pools; I think it was the plate pool and structural pool, being a matter of general knowledge, or something to that effect, this morning. Do you recall such a statement, common knowledge?

A. I do.

Q. What did you mean by that?

A. I meant in the trade.

Q. In what trade?

A. In the respective trades, in the materials covered by those pools. For instance, all producers of plate knew of the pools; all purchasers of plates knew of the pools; likewise in the beam pool the purchasers of structural material and the makers of structural material knew of the pool; that is not to say that the wire trade necessarily would know there was a beam pool; I did not know that there was a wire pool.

Q. Mr. Roberts, you said in answer to counsel that the market for the mills of the National Steel Company was in the Central West and in the Pittsburgh district. In which place did they market the greater percentage of their products, in the Central West, so-called, or the Pittsburgh district.

A. The Central West.

Q. Were those mills, so far as you know, large sellers in the Pittsburgh district or otherwise?

A. No. Their material went principally to the tin plate and sheet steel mills located throughout Ohio and that section.

MR. SEVERANCE: That is all.

MR. DICKINSON: Just one question.

RE-CROSS EXAMINATION,

By MR. DICKINSON:

Q. Mr. Roberts, I believe you stated in your cross examination that these pools were spoken of in the trade papers and journals generally, did you not?

MR. SEVERANCE: He did not say "generally."

THE WITNESS: They were spoken of in the trade papers from time to time, yes.

By MR. DICKINSON:

Q. From time to time?

A. Yes.

Q. I suppose that a man in the wire business would shut his eyes when he read about a plate pool, and *vice versa*, would he, and would only read what concerned his own business; is that the idea of your testimony?

A. It depends upon how closely they read the newspapers, of course?

Q. Well, a man that was generally informed would know something about all of them, wouldn't he, although it might not be his particular pool?

A. Not necessarily.

Q. Not necessarily?

A. No.

MR. DICKINSON: That will do.

(Whereupon an adjournment was taken until Monday June 9, 1913, at 10:30 o'clock a. m.)

SEVENTY-SECOND DAY.

EMPIRE BUILDING,
71 Broadway, New York City,

Monday, June 9, 1913.

Before SPECIAL EXAMINER JOHN ARTHUR BROWN.

Present on behalf of the United States, MR. DICKINSON and MR. COLTON.

Present on behalf of the Defendants, MR. LINDABURY, MR. SEVERANCE, MR. BOLLING and MR. REED.

ELBERT H. GARY,

a witness previously sworn on behalf of the Defendants, was recalled for further examination.

DIRECT EXAMINATION (Continued),

By MR. LINDABURY:

Q. In your testimony on the 2nd of June you referred to an agreement, a memorandum of which was made and signed by Mr. Carnegie, Mr. Frick and Mr. Porter, some time between 1898 and 1901, and you stated that that paper was retained by you, that you placed it in your desk and that you supposed it was there until some time since this suit was commenced; that you thought it was there until two or three months ago; that you kept the desk locked; no one else had access to it so far as you know; and then you stated who had been in that desk by stealth you do not know; that if any one had the paper you thought it ought to be produced, that you cannot find it, you are sorry to say, but you know very well the substance of it.

I desire to ask you whether or not by that statement you intended to imply that this paper was now in the possession of counsel for the Government or of any one connected with or representing the Government in this suit, or that it had ever been in the possession of these gentlemen or any of them.

A. No, sir.

Q. You did not mean to imply that?

A. No.

MR. DICKINSON : Or the control?

THE WITNESS : No.

By MR. LINDABURY :

Q. Or that it was under their control?

A. No.

Q. Or that they had any knowledge of it?

A. No, sir.

MR. LINDABURY : You may cross-examine.

CROSS EXAMINATION

By MR. DICKINSON :

Q. In your direct examination, at page 8888 of the type-written testimony, referring to the methods that had been in vogue in the matter of the control of the subordinate companies, the question was asked you:

“Q. Were you in those days kept in pretty close touch with the general business of the subsidiaries?”

and you answered:

“A. I was, necessarily. I have always been, necessarily. In later years not so much in regard to what I would call the smaller details of operation, and certainly not with reference to the details of manufacturing, but in a general way of course I was, because all of the important things involve the expenditure of money or the determination of a policy, and those come from the president directly to me.”

Now, when you say there that in later years you were not necessarily in close touch, please indicate what you mean, what period you mean to embrace by the term “later years.”

A. I simply mean to say that for the last five or six years I have not visited the mills and have not known as much about the operation of the mills and the things that were going on at the mills as I had before that time; and I perhaps should add, in justice to you, that I did not claim to have ever been fully acquainted with the details of operation at the mills.

Q. But I understand then that by the term “later years”

in that connection you refer to the last five or six years?

A. Yes; not to be exactly definite as to the time. The range of my duties and responsibilities which have devolved upon me have been increased, and therefore my time has been more devoted to questions of policy. I will go back farther than that, if you want to be definite, if it is important to you to state the time.

Q. I only wanted to know what period you meant to embrace by the answer "later years," because it is a vague term in itself.

A. Will you let me answer it in this way? My duties and responsibilities have been substantially the same as they are now about six years. Before that, for a period of three years, they were not quite so great; prior to that time, from the beginning of the Corporation, they were still less.

Now, as my duties and responsibilities have widened, I have been less familiar with details. That is about as definite as I can remember.

Q. How about questions of policy, and the question of policy of sales and the attitude towards competitors? Has there been any change within that period as to your knowledge on this subject, and if so, within what periods would there be a difference?

A. I should say there has been a difference between the period commencing say eight or nine years ago and prior to that time.

Q. That is to say, take the last nine years, there has been a difference between those years and what prevailed before that?

A. Yes, the first three or four years; three years, I should say, after we were organized I did not devote as much time or know as much about the sales, the selling department, or have as much to do with the policy of the corporation as I have had since.

Q. Well, then, take the period after the first three years after the formation of the corporation; have you kept in close touch with the policies of the constituent companies in the matter of sales, so far as it would affect their competitors, or not?

A. I should say that I have tried to do so. I think I have known more and more about them as time passed.

Q. Well, now, state, Judge, whether or not during the whole time since the formation of the Corporation there has been a very large latitude left to the constituent companies themselves in determining the question of policy in respect of sales as it affected their competitors?

A. That is, from the beginning?

Q. Yes, from the beginning, or if there has been any change at any period, you can indicate what the change was and the period when such change began.

A. Well, I am unable to say the exact date, Judge, but I will say that there has been a change since the beginning; and I will say also that the policies of selling were not so carefully enforced by the Steel Corporation during the first three or four years as they have been since.

Q. The question is how far these subordinate companies, since the formation of the Corporation, were allowed latitude in determining the question of policy in respect of sales as affecting their competitors, and if there has been any difference in respect of that during any period, if you would define the differences and the periods in which they prevailed.

A. I probably cannot intelligently answer your question except by giving you the exact facts in regard to any particular thing, or in regard to any particular policy, or with respect to any particular date. You know, because I have stated, that during the earlier years of the Corporation the disposition of some of the managers of subordinate companies and possibly some of the officials of the Steel Corporation was to manage the affairs of subsidiary companies without always being certain that they were managed in accordance with the desires and expressed policies of the Steel Corporation. When I suggest to you how different were the notions of different people at the beginning of the organization, and how much difficulty we had in harmonizing all these views and methods and manners and desires, you can readily understand, I think, what I mean. I am perfectly willing and will, to the best of my ability, take any particular time or any particular subject and give you the exact facts as I understand them.

Q. So far as you know, did any of those activities take the form towards the competitors of unfair competition in any respect, and if so, state what concrete cases you have in mind.

A. No; I do not remember any; but if you have anything in mind and I know it, I will tell you.

Q. Now, you stated on page 8885 of your testimony, referring to that character of differences, as follows:

“In the earlier years we did not always find out exactly what was being done, but that is a thing of the long past.”

Now, will you define with some more definitiveness what you mean there by earlier years, when you say, “It is a thing of the long past.” What period, now, would you cover?

A. At that time I had in mind the first three or four years after the organization.

Q. That would bring it down to 1904, somewhere along there.

A. I would not fix the exact date, Judge, because I cannot.

Q. But there was a period which you do not fix exactly, where you say there was a change.

A. Judge, I would find out these things in this way, for instance: I would hear some of our officials of the Steel Corporation propose certain things in their treatment of others, and when I would hear of those things I would say, “No; that would not be our policy”——

Q. What sort of things?

A. Well, in earlier years I have heard some of our officials say, “There is only one way of doing business, and that is to drive that man out. We can manufacture cheaper than he. We can sell at a lower price than he, and we have an advantage of him, and there is only one way of carrying on this business, and that is to sell at a price that forces him out of business.”

Now, that is a thing I never approved of and always disapproved of, and our company did as a company. That is what I had in mind, and——

Q. Now, the things that you have in mind which you have just described, occurred during what period, giving the year?

A. Those were the very earliest years of our organization.

Q. Was it a fact that you could manufacture cheaper than your competitors?

A. At the beginning?

Q. Yes.

A. I presume cheaper than some of them, yes, of course we could.

Q. And was it a fact as stated by them that you could, on account of that fact, put some of them out of business?

A. I think we could at the start, Judge; I have no doubt we could; and not only we could have done that, but many others could have done it. For instance, Judge, in my opinion I believe Jones & Laughlin at the time this Company was organized, could have driven the Republic Iron & Steel Company out of business. Those conditions have changed, of course, but I only mean to say that a stronger, better equipped company, which has a decided advantage over a very weak company, can, if it is willing to do so, drive the smaller one out of business, just as I believe they used to do in olden times.

Q. Well, the Corporation had been formed, had it not, with a view to economy of production; that was one of the purposes you had, as you described?

A. Yes.

Q. For a period following your organization were you able to produce the various products that were produced by the constituents of the Corporation at a less price than your competitors?

A. Certainly at less price than most of them, and probably at less price than any of them; that is, to the extent that our Corporation was better equipped, better organized, possessed better facilities and better opportunities of extending its business, generally, increasing its foreign trade and delivering its raw products to its finishing mills, and delivering its finished products to selling points, in the same proportion I think it could manufacture at lower cost.

Q. Judge Gary, where you referred to these earlier years and the period at which that different policy began to be effective, state the time when such policy was really effective.

A. Judge Dickinson, I cannot fix a definite time. These

things are a growth, like everything else; conditions grow better, improve from time to time, some days, some years, in one place and some in another, gradual, steady growth and change. I would be more specific if I could.

Q. You know, of course, Judge Gary—

A. (Interposing) Judge, may I add to that answer?

Q. Yes.

A. If you will ask me with reference to any specific thing and I can fix the date or about the date of it I will be glad to do so.

Q. In the formation of the Steel Corporation did you not take into the constituent properties as large a percentage of the foreign business then being done as you took of the domestic business being done in proportion to the other foreign business that was left out and the other domestic business that was left out?

A. I cannot answer that question offhand.

Q. You did, however, form it with a view, you say, of increasing foreign business?

A. I certainly did.

Q. You took over companies, then, that were doing foreign business, did you not?

A. Yes, sir.

Q. But you cannot give the proportion?

A. No.

Q. You were acquainted, Judge, were you not, with the fact that Congress on January 28, 1905, passed a resolution as follows:

“RESOLVED, That the Secretary of Commerce and Labor be, and he is hereby directed to investigate the conditions of the iron and steel industry of the United States for the purpose of ascertaining the following facts: Is the United States Steel Corporation and its associated and constituent companies engaged in commerce between the States and Territories or with foreign countries? And if so engaged, to what extent the iron and steel industries in the United States, including the output and prices of its products, are controlled by said corporation and its associated and constituent companies. To what extent said corporation and its associates

control the output and prices of the finished products made by independent companies dependent upon it for their raw material. To what extent, if at all, does said company or its associates sell its products cheaper to its export trade than it does to its domestic customers.

And whether said conditions have resulted in whole or in part from any contract, combination, or agreement in the nature of a trust or conspiracy in restraint of commerce between the States and Territories or with foreign countries, and that he report his findings according to law."

A. If I did, I have forgotten it. I know of no investigation having been made pursuant to that resolution.

Q. You state that you have no knowledge of such a resolution having been passed?

A. I say I have no knowledge of it.

Q. And if you ever had any knowledge of it, it has passed out of your mind?

A. Yes.

MR. LINDABURY: I would like to have that question repeated.

(The stenographer repeated the question.)

MR. LINDABURY: I would like to know if the Judge has in mind who was to make the investigation.

THE WITNESS: The investigation that was made, so far as I know and believe, was not made under that resolution at all. I think it has been testified here, and I believe I have testified, how the investigation was commenced. It was by the Department of Commerce, but as I said, under the direction of the President, and my interview was with the President and Mr. Metcalf, the Secretary of Commerce, and Mr. Garfield, the Commissioner of Corporations, but so far as I know, that had no relation to any resolution passed by Congress. I have not the slightest recollection of having heard of it at all. I do not deny that I may have seen in the newspapers something about this resolution, but I have no recollection whatever in regard to it.

By MR. DICKINSON:

Q. When did the investigation that you know of first begin?

A. I should think it was in 1905 or 1906.

Q. Shortly after the date that is attributed to this?

A. Some time after that, I should think.

Q. Judge, you stated on pages 8857 and 8858, Volume 66:

“I am justified in saying that we have fostered competition.”

And further on, on page 8889:

“These policies”—referring to those of the Corporation—
“have tended to develop trade, to extend trade, to increase trade, to foster competition, to prevent monopoly, to prevent wrong and imposition of any kind. I want to say with emphasis, because it seems to me it is involved in this case and we are called upon to say it as a matter of fact, that the policy of this Corporation has been to so manage and conduct its affairs as to make it certain it did no wrong or injury to any person or any other interest.”

Now, what period of time did you mean to embrace by that statement as to its policy?

A. Well, I say that was its policy from the start.

Q. Do you recall now any acts done by any of the subsidiary corporations either with or without the knowledge at the time of the higher officers of the Steel Corporation, whose tendencies were not to foster competition and whose tendencies were not to be fair to competitors?

A. I do not, Judge, but if you will call my attention to any particular thing, or refer to any act or neglect to act that you believe had that tendency, I will tell you frankly just what I know and have heard about it.

Q. Well, of course, the question of fostering competition, and in fact all of these general statements, may involve some difference of opinion and judgment as to what, in fact, might be preventing monopoly or fostering competition. Now, taken in connection with your testimony and your use of those terms, I would like to ask you whether you would regard that it was fostering competition for any of the large constituents of the United States Steel Corporation to buy up pig iron with a view to sustain the market and thereby keep up prices of semi-finished products; if such a thing were done, would you call that fostering competition?

A. Well, I should say it might perhaps depend upon circumstances; that perhaps could be done at a time and under circumstances and that would be fostering competition.

I have in mind indistinctly the suggestion made in earlier years by some one to buy some pig iron, simply because it would be beneficial to the market, and I opposed it, and I am very sure, giving you my best recollection and judgment, I never approved the purchase of pig iron for the purpose of sustaining the market. If you will call my attention to particular instances and facts I will try to answer.

Q. I will refer to them, and you can correct me if I am wrong; and ask if your judgment on that matter was controlled by the idea that that would be an unfair exertion of power and influence.

A. I say, depending upon circumstances.

Q. You spoke of having opposed it. Was that the ground of opposition that influenced you?

A. I think at that time I saw no good ground for doing it, no ground I considered fair and reasonable, no extreme circumstances that would justify it.

Q. Did you consider that there was any fundamental objection to it from the standpoint of the policy of the company, to which you have referred, as to fostering competition, etc.?

A. I would think, of course you are now asking my opinion concerning an abstract proposition, but I would say that I believe under normal conditions the purchase by the Steel Corporation of a substantial and influential quantity of pig iron simply for the purpose of sustaining the market would not be justified.

Q. Well, what would you call, as to any period prior, say, to 1905, a substantial amount or purchase?

A. Prior to 1905?

Q. Yes.

A. Oh, well, two or three hundred thousand tons, for instance.

Q. Would you call less than that a substantial amount?

A. Well, the production of pig iron is and was at that time so large in this country that a smaller purchase than that I would not think would have any effect, and I do not believe

that would have very much. Of course we bought pig iron in those days. We had to buy pig iron; I am not giving the exact period.

Q. I am not speaking now of what you bought for necessities, but I am putting now what may be a supposititious case. Suppose that the amount embraced all of the pig iron then being offered on the market, or all that would be for some appreciable time.

A. Well, up to what quantity, for instance?

Q. I mean all the quantity that was being offered, large or small.

A. I would answer that question, stated in that language, in the negative.

Q. You would answer in the negative?

A. Yes.

Q. What, in the negative?

A. It might be a very small quantity. You do not give me the quantity. Now, the productive capacity of pig iron was very large, and for instance at any given time—in 1905, do you ask me?

Q. Prior to 1905.

A. In 1904?

Q. Any year embracing 1905 and prior thereto.

A. There is quite a difference in years. Say in 1904, there might be offered fifty or a hundred thousand tons of pig iron only, and I do not believe that the purchase of that pig iron would have any appreciable effect on the steel market, because the productive capacity was so large. I have heard these theories, that if you cleared the market of pig iron in 1907—I remember to have heard from some of the pig iron producers that it would protect the situation if the steel makers would purchase the surplus of pig iron, but I never believed in it and never acted upon it, and we did not buy any.

Q. How about 1903; was there as much produced then as there was in 1904?

A. I think there was, pretty nearly. The market conditions were very much better in 1903 than they were in 1904. That was a presidential year.

Q. What do you mean by market conditions?

A. General financial conditions. There was a depression in 1904—that was a presidential year, as I remember—particularly the latter part of the year.

Q. What about the year 1903, what would you say about the market conditions then?

A. The market conditions went off, that is, became depressed, I should say perhaps the middle of 1903, or even a little later than that. The earlier part of 1903 I think conditions were very good. Of course all these questions are susceptible of proof by reports that cannot be questioned.

Q. Was the demand for pig iron greater in the early part of 1903 than it was for the latter part?

A. That is my impression; I think so.

Q. Well, then, buying the visible supply of pig iron at that period would have a greater effect at that time than when there was not so much demand for it? Where the market is good the demand is greater always for pig iron?

A. Yes.

Q. Where it is good for steel and iron products?

A. Yes.

Q. Under those conditions if the visible supply should be bought up it would have a greater effect than it would if it were bought up at a time when there was not so much demand, would it not?

A. I would not think so.

Q. You say you wouldn't think so?

A. Yes, sir.

Q. Judge Gary, state whether in January, 1902, you were a director or officer of the National Tube Company?

A. Yes.

Q. What were you? I said director or officer; were you both?

A. Director.

Q. How long have you been a director?

A. I cannot say. I was nominally a director of most of the subsidiary companies I think from the start.

Q. Do you know, at that time, of any plans entertained by the officers or directors or any of them, of the National Tube Company to dominate the trade situation in the products they were selling?

A. No, I cannot say that I do.

Q. What would you have understood at that time by the term dominate the trade situation?

A. Well, I would understand that probably to be a very loose and a very careless and a very foolish statement of some official, if it was made.

Q. You would regard it as careless, would you?

A. Well, by that I mean a statement without consideration of what it really meant.

Q. What would you understand it to really mean?

A. I would probably have the same understanding of the word dominate that you have, Judge.

Q. That is to control, would you?

A. Very influential, to say the least. I would consider a dominant factor a very influential factor, but not absolutely a controlling factor. I do not want to split hairs on the definition with you, of course.

Q. You knew Mr. Latshaw, did you?

A. Who?

Q. Mr. Latshaw.

A. I do not remember the name.

Q. Was he an officer of the National Tube Company at that time?

A. I do not remember the name at all.

Q. Do you not recall he was second vice-president of the National Tube Company?

A. I do not remember the name at all, Judge.

Q. You do not?

A. No.

Q. I read from the minutes of the National Tube Company, Government Exhibits, Volume II, pages 417 and 418, of January 21st, 1902:

“Upon the calling of the roll the following”——

A. Where was the meeting held, Judge? Does it state?

Q. This extract does not show, but I will read it as it appears here:

“Upon the calling of the roll the following named Directors were found to be present, viz:

“John D. Culbertson,

“Wm. B. Schiller,
“E. C. Converse,
“Wm. H. Latshaw,
“E. H. Gary,
“A. S. Matheson,
“F. J. Hearne,
“Charles Steele.”

Now, how many of those names do you recall?

A. I remember all of them except Latshaw; I do not remember him at all. I doubt if he remained with the company very long.

Q. Mr. Steele was one of the firm of J. P. Morgan & Company, was he not?

A. Yes, he had been a director before the U. S. Steel Corporation was organized, I think.

Q. Well, J. P. Morgan & Company were interested in the National Tube Company, were they not, before the organization of the United States Steel Corporation?

A. I think they financed it, but I do not know much about that and never did.

Q. It goes on: “being a majority of the board and a quorum.

“The First Vice-President, Mr. Schiller, reported that the mills were all running to their full capacity, with the exception of the Oil City Department, where there was a partial shut down because of a shortage of gas, which it was hoped would be only temporary.

“The amount of stocks on hand had been increased to about 55,000 tons, about twice that reported at the December meeting, but that orders coming in represented nearly the full producing capacity of the company and indicated that there would be very little increase in the present stocks on hand.

“The Second Vice-President, Mr. Latshaw, reported that the business outlook was very good; that the tonnage being booked was due to notification to the jobbers that in case prices were reduced during January the company would settle with them on the lowest basis, in conformity with the sales policy just inaugurated to meet the advances of competitors

and as a notification of the intention of this company to dominate the trade situation.”

Do you recall that, Judge Gary?

A. I do not. Is there any record of what I said?

Q. That is all there is here in the record of that meeting.

A. Of course I was not quite as active or quite as willing to assert myself in those days as I was a little later, or some years later, but I have no recollection whatever of that.

Q. What position then did you hold with the Steel Corporation; chairman of the——

A. Chairman of the executive committee.

Q. Do you know what the sales policy was that had just been inaugurated, therein referred to?

A. I do not.

MR. LINDABURY: You have just stated, Judge.

MR. COLTON: It is not very fully stated there.

MR. LINDABURY: Is it not?

THE WITNESS: Except as stated in that.

MR. DICKINSON: It says “to meet the advances of competitors and as a notification.”

MR. LINDABURY: They would meet prices, whatever they were.

MR. DICKINSON: I am asking him if he knows anything in addition to what is there stated.

MR. LINDABURY: Would you mind if I showed this to the Judge?

MR. DICKINSON: No.

THE WITNESS: My answer still is: I do not.

MR. LINDABURY: That is the extract referred to. (Handing book of exhibits to the witness.)

THE WITNESS: I think that word “advances” probably is a mistake in writing the record, or somewhere. I think that should be “reductions.”

By MR. DICKINSON:

Q. It may mean advances on your business.

A. Well, I do not think so, Judge.

Q. Well, we do not know about that, and of course we cannot change the minutes, but——

A. I do not think that would make sense.

MR. LINDABURY: It might be an error in the printing.

MR. COLTON: It was checked over pretty carefully. Of course we might send for the original minutes.

THE WITNESS: I should think that was probably a mistake in making up the minutes.

MR. LINDABURY: They would not make advances.

MR. COLTON: Unless it was advances on business.

MR. DICKINSON: If it is incorrect we can correct it.

MR. COLTON: Suppose we send for the book.

MR. LINDABURY: Yes.

THE WITNESS: Probably the mistake was made by the young man who wrote up the record, whoever it was.

By MR. DICKINSON:

Q. Do you remember who he was?

A. No; but there was a clerk there, I believe, in those earlier days.

Q. But you do not recollect who he was?

A. No.

Q. You do not recall whether he was a young man or an old man?

A. A young man, as I remember. I remember in the earlier meetings of the National Tube Company they had a young man whose name I do not know, if I ever knew it, who made minutes of the meetings.

That is as much as I can say.

Q. Do you remember that distinctly?

A. You ask me if I remember distinctly? I have an impression.

Q. Enough to speak of it with positiveness?

A. What is that?

Q. Enough to state it as a recollection, I say?

A. Well, that is my impression.

Q. But you have no recollection of Mr. Latshaw, the vice-president?

A. No. Undoubtedly from that he was connected with the company and a vice-president of the company, but I should

not say he remained very long, and at any rate I have no recollection whatever of that name.

Q. What departure, if any, in the selling plans of the company was adopted about February 18, 1902?

A. I do not know.

Q. If any was adopted, can you speak in a general way, whether it had any effect on competition and on the competitors of the company?

A. No; that would be theoretical. I could not answer that.

Q. You have no recollection either as to the plan or its details, or as to the effect of the plan, if there was one?

A. No; I am very sure in those days if the Tube Company adopted any special plan for the selling department, it did not come before the Steel Corporation for consideration.

Q. Now, I will ask you—I call your attention, Judge, to the minutes of the next meeting of February 18th, 1902. In the extract here, it is not shown who were present. The original minutes would show, however.

MR. LINDABURY: Shall I give it to him, Judge?

MR. DICKINSON: I do not object to his looking at it.

By MR. DICKINSON:

Q. Page 418:

“The Second Vice-President, Mr. Latshaw, reported that sales for January, 1902, were 42,744 tons as against January, 1901, 41,291 tons, and January, 1900, 34,921 tons.

“Sales for the first eleven days of February, 1902, were 19,301 tons as against February, 1901, 13,433 tons; February, 1900, 16,025 tons.

“Mr. Latshaw reported that the demand had started in about four weeks earlier than usual, but that this could be attributed to the operation of the new selling plan, which was progressing satisfactorily in that the trade seemed satisfied, and that it had temporarily defeated competition.”

Do you know what that selling plan that Mr. Latshaw there referred to was?

A. I do not. Mr. Latshaw I should think by this must have been manager of sales.

Q. Then you do not know whether it had temporarily defeated competition or not?

A. I do not.

Q. Now I will read from the same volume,—

A. I should like to have you, if you can, show me a statement of that kind made after, say about 1903, when I was present, without being denounced by me.

Q. You say you will denounce me for showing it to you?

A. No, I did not say that.

Q. That is the way you put it. You would like me to show it to you without being denounced. I suppose you meant by that, Judge, that if there were any statement of that sort in the minutes about you that you would say it was incorrect?

A. No.

MR. LINDABURY: I would like to have the stenographer read that answer that the Judge made.

(The stenographer thereupon read the answer as follows:)

“A. I should like to have you, if you can, show me a statement of that kind made after, say about 1903, when I was present, without being denounced by me.”

By MR. DICKINSON:

Q. You mean denouncing the statement at the time in the minutes?

A. That is what I meant to say.

Q. I think I catch it.

A. May I just say a word?

Q. Yes.

A. In the earlier years there were notions in the minds of many of our subordinates concerning the permissible way of doing business, which led them to make statements or to express themselves from time to time in my presence as to what they would do or believed in doing, and as I began to get into harness, so to speak, I endeavored to correct and change those notions, and when anything was suggested that did not seem to me to be fair and right and decent I opposed it, and so far as I could influenced a different attitude, and the finance committee sustained me in that position until we came to a point where I think I can say honestly we did not allow any

of our people to intentionally do anything that was contrary to the policies which I have testified to here.

Q. Well, now, you cannot state anything, however, about this plan which Mr. Latshaw said had defeated competition. You do not know what that was?

A. No; of course I could place my own interpretation upon his words.

Q. I am not asking you for an interpretation. I am asking you if you can state what that selling plan was?

A. No, because I do not remember, if I knew.

Q. Now, I will read you from the minutes of March 18, 1902, same page:

“Mr. Latshaw, the second vice-president, reported that sales for January, February, and the first 14 days of March this year were 145,000 tons as against 119,000 tons for the same period of last year. Mr. Latshaw stated that the new selling plan was working so well that the necessity for cutting prices to meet competition had been very largely removed, and there would be a very slight differential, if any, for March.”

Can you give any further information on actual recollection in regard to any selling plan, in addition to what you have stated?

A. I cannot.

Q. Now, I will read you, Judge, from December 16th, 1902, page 420, the same volume:

“Mr. Latshaw reported as follows: That tonnage of orders coming in is extremely satisfactory. We are hearing very little from outside competition and think we will hear still less after their stocks have been exhausted.”

Do you know, and can you recall and state the condition as to outside competition at that time?

A. No, sir.

Q. What effect would it have on competition for any large concern such as the United States Steel Corporation to tie up large consumers over long periods of time under contracts under which they took all or approximately all of their products from the United States Steel Corporation?

A. I do not know that I could answer that question.

Q. Do you carry in your mind any knowledge of such contracts?

A. No, I do not have in mind any.

Q. I will call your attention, by way of asking you whether or not it refreshes your recollection and asking whether or not you can give any statement in regard to the facts, to Government Exhibits, Volume II, page 506, a meeting of the Carnegie Steel Company. Were you a director of that company October 30, 1905?

A. I was nominally a director.

Q. You were a director?

A. Nominally.

Q. Did you have the same power as any other director?

A. Oh, yes.

Q. You had a right to attend the meetings?

A. Yes.

Q. And had the right to vote?

A. Yes. I did not mean that I did not have any power. I probably had more power, really, than any of the rest of them, but I did not attend their meetings; their meetings were held in Pittsburgh. I did not attend the meetings, any of them.

Q. You had a right to examine their minutes?

A. Yes. I wish I had exercised it more.

Q. I will read you from those minutes:

“MR. BOPE: We have 122,000 tons of rails outstanding on contracts, in addition to those included in the report.

“On the general situation there is not much new to be said. It is just as strong as it has been at any time. The only item of interest is that we closed with the Standard Steel Car Company during the week for all their requirements for ten years. It might seem that we could have been reasonably sure of their tonnage from year to year; but with our enormous capacity and the contemplated additions to it, it seems to me the thing to do is to get as much ‘back-log’ tonnage as possible. In going over our books, it is apparent that we have obtained the cream of the tonnage placed in the country during the past year, in heavy axles, plates, shapes and bars. We have picked our business, taking only the most desirable, and, even if we did not always get the highest prices, our ‘back-

log' tonange, and the ability to turn out an enormous production, have been better than to get top prices by taking more undesirable work. With the exception of the American Car & Foundry Company, we have the best buyers tied up, and even in bad times we should be able to run our works fairly full."

Now, Judge, what was the Standard Steel Car Company at that time?

A. A manufacturer of steel cars.

Q. Did they use a large amount of steel?

A. I think they used considerable.

Q. Do you know, since your attention has been called to it, or recall the fact that there was a contract for ten years with the Standard Steel Car Company by which they were to take all their requirements from the Carnegie Company?

A. I do not.

Q. Did you know it at the time?

A. I don't think so

Q. How about their having the best buyers tied up? Did you know that at the time?

A. No; I think Mr. Bope was blowing his own horn a little there.

Q. Do you think that Mr. Bope was misrepresenting the facts to the other directors?

A. I think Mr. Bope was dealing somewhat in exaggeration when he said he had picked his business, taking only the most desirable, and that he had obtained the cream of the tonnage placed in the country during the past year.

Q. But, Judge, I am asking you about when he said they had the best buyers tied up. Do you know what contracts they had with the best buyers?

A. No, I do not.

Q. Are you in a position, then, to express an opinion as to whether Mr. Bope was stating the facts when he said that?

A. Probably I ought to answer that question in the negative.

Q. On the next page, I will call your attention to the meeting of November 13, 1905, at which Mr. Bope says:

"As a matter of policy, Mr. Corey has told the American Car & Foundry Company that we do not care for their eastern

business. Their western trade is ours legitimately, but the eastern business we are satisfied to give to Lackawanna and Jones & Laughlins. I think this is a wise move, as we have the Pressed and Standard Companies tied up for their entire requirements. To take all this tonnage from our large competitors would simply mean that they would encourage new car works, and I do not think it would be wise for us to take a stand that would bring this about."

Now, do you know what contract they had with the Pressed Car Company?

A. No, sir; I do not. I know they sold to the Pressed Steel.

Q. But you do not know the period of the contract, or whether it took all their requirements or not?

A. No, sir; I do not.

MR. LINDABURY: That is in evidence.

MR. DICKINSON: I am just asking what the Judge knows.

THE WITNESS: I do not remember.

MR. LINDABURY: I did not mean to inform him.

By MR. DICKINSON:

Q. Do you know what the National Transit Company was and what concern it was a subsidiary of?

A. I do not recall at this time. Wasn't that connected with the Standard Oil people?

Q. I am asking for what you know about it. Do you know what contract, if any, the Carnegie Company had with the National Transit Company?

A. No.

Q. Or how much output it embraced?

A. No; I do not remember, if I did know.

Q. Do you know anything about whether there was such a contract?

A. I do not remember anything about it. If I knew, I do not remember.

Q. That is what I understand. The Standard Oil Company was a large consumer of pipes, was it not?

A. Yes; directly or through subsidiary companies.

Q. One of the largest in the country, wasn't it?

A. I think so.

Q. How about the American Can Company; do you know of any contract that existed between the American Can Company and the American Sheet & Tin Plate Company, extending over a long period of time, by which 99 per cent of the requirements of the American Can Company was to be bought from the American Sheet & Tin Plate Company?

A. I do not; I do not remember such a contract, and if I did know it, I do not remember it. I knew, of course, that the American Can Company was a very large purchaser from the American Sheet & Tin Plate Company.

Q. Do you know anything about a contract extending over a long period of time between the Carnegie Company and the Pittsburgh Steel Company by which for that period of time the Pittsburgh Steel Company was to take the whole of its requirements from the Carnegie Company?

A. The same answer.

Q. Do you know anything about a contract between the American Steel Foundries Company on the one part and the Carnegie and Illinois Company on the other, a long term contract?

A. I remember something about the subject matter. I remember the president of the Steel Foundries Company speaking to me about making a contract for the purchase of steel from some of our companies, and I turned him over to some one, some sales manager, I should think, and I think the president told me afterwards he had made a satisfactory arrangement.

Q. But you do not know the terms of it?

A. I do not know the terms of it and never did, so far as I remember.

Q. Do you remember a contract between the Oliver Iron & Steel Company and the Carnegie Company by which the Oliver Iron & Steel Company was to take its entire requirements from the Carnegie Company, extending over a period of years?

A. I do not.

Q. Do you know anything about a contract between the Crucible Steel Company for a long period of years by which all of its requirements were to be taken from any of the subsidiaries of the Steel Corporation?

A. I do not.

Q. Do you now know of any contracts between any of the companies named and any of the subsidiaries of the United States Steel Corporation which were either long term contracts or contracts requiring either a large proportion or all of the requirements to be taken by the purchasing company?

A. I do not. If I have ever known, I have forgotten. That is what I have intended to answer you to all these questions.

Q. Yes; I have understood it that way, and that is the reason I made this broad question. Judge, what knowledge have you as to contracts made with the jobbers by certain of the subsidiaries of the United States Steel Corporation whereby the jobbers received a rebate only in case they purchased a very large percentage of their entire supplies from the Steel Corporation; and also what knowledge have you of percentage contracts with purchasers, such as the American Locomotive Company, whereby said purchasers were to take a large percentage, such as 75 per cent, from the subsidiaries of the United States Steel Corporation?

A. Not any.

Q. Judge Gary, do you have any knowledge or information in regard to a contract that was being considered on April 29th, 1901, between any of the subsidiaries of the United States Steel Corporation and the Standard Oil people and any question that arose as to the matter of influencing them to purchase supplies from the subsidiaries of the United States Steel Corporation?

MR. LINDABURY: Couldn't you make that more definite by mentioning the subsidiary? "Any subsidiary of the United States Steel Corporation" is rather vague.

MR. DICKINSON: I will read just what it is here, and see if that makes it more definite.

MR. LINDABURY: What page?

MR. DICKINSON: Pages 561 and 562, Volume II, Government Exhibits, April 29th, 1901.

By MR. DICKINSON:

Q. You were the chairman then, were you not?

A. Chairman of the executive committee.

Q. Was there any other chairman at that time?

A. Chairman of the finance committee.

Q. If you look at page 561, do you see there about the middle of the page, it speaks of "The chairman favored selling a limited supply of Mesabi ore." Was the chairman there referred to you?

A. I think so.

Q. Now, then, on the next page, at the same meeting, is the following:

"Purchases made by the Standard Oil Company. There was some discussion as to ways and means to influence the Standard Oil people in the matter of purchasing its supplies from our companies. The president of this company was authorized to take up the question."

Do you know which of your companies were referred to there?

A. I do not.

Q. Where it said, "supplies from our companies"?

A. I do not. That is evidently a statement by the young man who attempted to take down the substance of the discussions as to what had been said. Presumably, it was suggested that some of the Standard Oil people were not buying some of their supplies of some of our subsidiary companies and it was suggested that the president take up with some of the Standard Oil people the question of seeing if the Standard Oil people could not be induced to buy of some of our companies.

Q. Judge, you spoke about a young man taking it down?

A. Yes.

Q. You also in your direct examination made some reference to a young man taking down what occurred at the meetings of the Executive Committee?

A. Yes.

Q. Who was he?

A. I think a Mr. Murray.

Q. Was he your private secretary?

A. He acted as my private secretary for a short time and may have been acting in that capacity then. He was younger then than he is now, of course. He could write shorthand a

little, not very well, and I remember he was a man I treated as a man of good ability, and who would grow into a responsible man, and I think it was my own suggestion having him present at the meetings.

Q. Now, he is secretary of your company?

A. No, he is an assistant in the treasurer's office; a very good man.

Q. He has been with your company ever since?

A. Yes, a very good man.

Q. You thought he was good enough for the purpose for which you were using him, did you?

A. Well, yes. It was more to keep a record of the topics referred to, I think.

Q. Well, you accepted his work?

A. Yes, I accepted his work; not in the sense of reading it and correcting it.

Q. How is that?

A. Not in the sense of reading it.

Q. You had a chance to do it?

A. Yes.

Q. Are you impeaching the veracity of his statements, what he put down?

A. No, excepting in this way: The statement by one person of the substance of what another person says very frequently is inaccurate and does not correctly represent the one who has spoken. I need not enlarge upon that; we all understand that, and I think when he uses the term, for instance, "discussion as to ways and means to influence the Standard Oil people," I do not think that correctly represents what anyone said there.

Q. Have you any recollection of what was said about the ways and means?

A. No, I have not.

Q. Then, have you any better memory of it than his record of it?

A. Well, I do not think his record is a memory. That is a record of his way of stating what some one else said.

Q. When it was fresh in his mind?

A. Oh, yes.

Q. Do you have in mind any particular errors that you know he made; if so, just state them.

A. I do not.

Q. You do not?

A. I do not mean to say that. I only state what seems to me, from the statement itself and from my knowledge of the people, that that would not probably be used; that is all.

Q. But as to this particular event, you cannot recall what was said by anybody?

A. I have not the slightest recollection in regard to it.

Q. No recollection about it?

A. No, sir.

Q. I call your attention to the minutes of the Carnegie Steel Company, Volume II, page 464, which is of April 30, 1901—the other date was April 29, 1901, just a day's difference, in which, referring to the contract with the National Transit Company, Mr. Bope, among other things, referring to Mr. Arnold, who represented the National Transit Company, says "He thinks the price should be 1.35c. for the groove skelp, and 1.40c. for the wider sizes. Personally, I think these prices are too low, but knowing the connection of the Standard Oil Company with the new organization, and that it is the wish of President Schwab that these people be properly treated, I think, perhaps, some concession should be made to Mr. Arnold. I should like to have the views of the Board on the subject.

"Some discussion ensued, and the Board agreeing that possibly some concession should be made, it was decided to give Mr. Arnold a minimum of 1.50c. per pound, which it was believed would be a satisfactory basis."

Do you know whether that was done?

A. No, I do not.

Q. Do you know whether it refers to the same transaction?

A. I don't know that, no.

(Whereupon a recess was taken until two o'clock p. m.)

AFTER RECESS.

ELBERT H. GARY,

the witness under examination at the taking of recess, resumed the stand for further examination.

CROSS-EXAMINATION (Continued),

By MR. DICKINSON :

Q. How would it affect the question of fostering competition or conducting competition in a fair way if one of the constituents of the United States Steel Corporation should load up a competitor of another constituent of the United States Steel Corporation with high priced material; then, if there be a cut in the price of finished material following that?

A. That is, if one of our subsidiaries should sell material to a manufacturer who was a competitor of any other subsidiary, for instance, which last named should then cut its prices?

Q. Yes, and the price at which the material was sold was a high price?

A. In the first place how could a seller, subsidiary selling company, load up a purchaser? That was your question. How could they load up? I do not understand how that could be done.

Q. Suppose the price of the material which was sold for finishing purposes, or further manufacturing purposes, was high, and a competitor of one of the subsidiaries of the Corporation should be sold at this high price very largely by another subsidiary of the Corporation, and then the price of the finished article should be cut by another subsidiary that was a competitor of this concern that bought the high priced material; how would that operate upon the question of competition and promoting competition and fairness of competition?

A. Well, it seems to me that that would be equivalent to asking me how the vicissitudes of trade, the changes in market price, would affect competition. If there was a conspiracy, we will say, which could be carried into effect—and I can hardly imagine such a thing—I was going to try to assume a

state of facts for you that would make a question in my mind, but I cannot do it.

Q. You spoke of the vicissitudes of trade depending upon prices; but suppose a concern like the United States Steel Corporation should have two subordinate companies, one of them that sold a material that had to be finished up into a higher product to an independent concern, and it had another subsidiary company that produced and sold in the market the same kind of finished product.

A. As the purchaser?

Q. As the purchaser did of the semi-finished material. Now, if the company which sold through its subordinates to this independent at high prices, which were then prevailing, but which were high prices, and after that was done so as to, to use the term, load up this independent company, the other company which competed with this independent concern in the product should lower the price on that product to a point to make it unprofitable for the independent concern, having paid that price, to finish it up and sell it in the market in competition.

Now, I ask you, if such a thing should take place, how would you consider that, upon the question of promoting competition and fair competition?

A. Judge, I do not think the two subsidiary companies of the Steel Corporation would bear any relation to each other as affecting this question. It seems to me the purchase by one independent outside manufacturer of semi-finished product of one of our subsidiaries would stand on its own base dependent upon the conditions of trade. However, if one of our subsidiary companies should at any time lower its price, lower the generally existing prices to a very low basis for the purpose of injuring a competitor in the finished product who had through any source been loaded up with a large supply, that would be unfair and unreasonable competition.

Q. If it had been loaded up from another subordinate of the Corporation, that would aggravate the conditions, would it not?

A. No, I do not see that that would make any difference.

Q. You do not?

A. No.

Q. Suppose it was done for that purpose and with the knowledge upon the part of that subordinate company that the price was going to be lowered by the other subordinate company?

A. I do not see that it would sell any more or less because it knew what the subordinate company expected to do. There might be circumstances that would be unfair and unreasonable, but perhaps this answers your question: If any of our companies, for the purpose of injuring a competitor, whatever the circumstances, should suddenly and unduly reduce its prices which it expected would be temporary and which were reduced simply for the purpose of injuring the competitor and not because conditions demanded it, I think that would be unfair competition and unreasonable competition and destructive competition? Now, if you have some facts there that I know anything about—

Q. Yes, I am going now to ask you about some facts.

A. And I will see if I know anything about them.

Q. And in view of what you have said, then I would call this to your attention, in the light of that statement from you. I will read from the Carnegie minutes of August 26, 1902, Volume II, Government Exhibits, page 475:

“Mr. Bope: The president directed me”—Mr. Corey was president then, was he not?

A. Yes.

Q. (continuing): “—a few days ago, to go after Sheet Bar tonnage, and we have closed for between five and six thousand tons at very good prices, one sale being at \$33.00 our works. We have to do this because the Sheet Steel and Tin Plate Companies are not requiring the tonnage in this line that we have to dispose of. Our selling to the independent mills at high prices ought to react to the benefit of the Tin Plate and Sheet Steel Companies later, because if we can fill these other people up at high prices, our companies can cut prices and take the orders.”

Now, I will read from the same volume, page 476, the next page, down at the bottom. Mr. Bope is the speaker:

“The Tin Plate Company are covered by contracts up to

the first of December. At that time they anticipate making a heavy cut in prices, which they think will put ninety per cent. of their competitors out of business. If this move proves as successful in securing business as is expected, the Sheet Steel Company will probably reduce to an equivalent basis. Both companies figure that they can then run full for at least the first half of next year."

Now, do you know whether the price of the finished product was cut?

A. I do not. I do not know anything about that. I have no recollection now on the subject. I consider those statements very foolish and probably more or less they are not based on the facts, but——

Q. Do you know anything about the facts?

A. No, but I know this much, Judge. I know what the former disposition of the Carnegie people was, and I know very well that Mr. Bope at the present time, if he read that language, would be ashamed of it.

Q. How about the American Tin Plate people; what kind of a reputation did they have?

A. I did not know so much about them. I do not know; I cannot answer.

Q. Did you know this method and practice and policy of the Carnegie Company before the formation of the United States Steel Corporation?

A. To some extent, yes.

Q. Well, you had had some experience with some of their competition in the Illinois Steel Company, had you not?

A. Well, I knew something about it, yes.

Q. And still, when the United States Steel Corporation was formed, Mr. Schwab, who had been with the Carnegie Company, was its first president?

A. Yes.

Q. And Mr. Corey, who succeeded him as president of the Carnegie Company, and Mr. Bope, who had been with the Carnegie Company for years during these practices, were continued with the Carnegie?

A. Yes. We expected to change all those notions and all that conduct, and we did. It took some time, I admit.

Q. Those were the only men, I suppose, that you could get who had been following these bad practices, or had everybody been doing that?

A. In the Carnegie Company?

Q. No, I mean were there any other people when you started off on this new system of beneficent competition—were there not others that could have been put at the head without those who had been indulging in this exasperating and extreme and unfair competition?

A. You characterize our disposition as beneficent. I never put it on that ground. I do not want to pose as a philanthropist in business. But these practices which I do not approve of and never have approved of, and our Corporation as such from the start did not approve of, were not confined to a particular company or to particular individuals, in my judgment.

Q. Pursuing this same subject, Judge, I will call your attention to Government Exhibits, Volume III, page 964, minutes of the Executive Committee of the United States Steel Corporation of November 11th, 1902, at which you are recorded as being present:

“Price reduction on finished products.

“The chairman submitted to the meeting the communications he had received from President McMurtry, President Graham and President Schiller, under date of the 10th instant, concerning the recent reduction in the prices of finished products of the American Sheet Steel Company, American Tin Plate Company and the National Tube Company.

“Upon motion, duly seconded, it was voted that this committee hereby recommends the action suggested by President McMurtry in his letter to the chairman, dated the 10th instant.”

What company was Mr. McMurtry president of?

A. He was president of the American Sheet Steel Company.

Q. And Mr. Graham the president of what company?

A. The American Tin Plate Company.

Q. And President Schiller?

A. Hearne was the president of the National Tube Company, I believe.

Q. And what was Schiller?

A. Schiller was vice president at that time, I think.

Q. He was one or the other, vice president or president?

A. Apparently he had succeeded Hearne at that time.

Q. He was president?

A. Yes, sir.

Q. Have you those letters there referred to?

A. No.

Q. I mean that letter of Mr. McMurtry's dated the 10th instant?

A. I have not. I have not the slightest recollection about that.

Q. Do you know what the contents of it was?

A. I do not. I should think from that it was a recommendation to reduce their prices.

Q. Do you know whether the prices were reduced?

A. No. I do not remember. It is quite likely they were. Of course prices have been reduced at times.

Q. I will ask you if it is not a fact that on November 1st, 1902, the Steel Company did reduce the price of tin plates from \$4 to \$3.60?

A. I have no recollection.

Q. Do you know whether there was any corresponding reduction at that time in the price of tin plate bars?

A. I do not remember.

Q. Judge Gary, when the United States Steel Corporation took over the Union Sharon properties, did those concerns have any more ore in proportion to the needs for their plants than the United States Steel Corporation as an entirety at that time had in proportion for the needs of its plants? If so, state what the differences were.

A. I should think not.

Q. Then was there any surplus of ore gained in this way after supplying the needs of the Union and Sharon companies which could be used for the other works of the Steel Corporation?

A. I should think not except in this way: You see, Judge,

if we had built furnaces of our own then those furnaces would have had to take their ore out of our then holdings of reserve, whereas by buying these furnaces we secured ore with the furnaces. There would be that difference in favor of protecting ourselves.

Q. Then by buying their properties and their plants you got the ore for those plants, but you got no more ore for your other properties?

A. No, I should think not.

Q. Well, then, you did not need those ores for your operations?

A. Oh, I think we did, and a good deal more, so far as that is concerned.

Q. But you used it for operating those plants, did you not?

A. Oh, yes. We might need it and yet not be able to get it.

Q. But did you get it because you needed it for the United States Steel Corporation independent of the needs for the Union-Sharon properties?

A. No, not if I understand your question.

MR. DICKINSON: Repeat the question.

(The stenographer thereupon read the question as above recorded.)

MR. DICKINSON: Do you think you understand the question?

A. I think so. As we needed those ores for the furnaces of the Union Steel Company then those ores would not result in furnishing an extra supply of ore for the companies which we owned before we purchased the Union Steel Company.

Q. And getting the plants of the Union-Sharon Companies created a need for the ores of that company?

A. Well, we might have had the need just the same for the other furnaces, but we could not supply the need because the Union furnaces needed the ore.

Q. Therefore you did need this ore for the plants that you acquired with it?

A. That is true.

Q. And not for your other properties?

A. I do not think you quite understand me, Judge.

Q. I think so. There was no surplus, at any rate?

A. No; that is right.

Q. Do you know the names of the mining properties that were acquired by the Union?

A. I did know them thoroughly at the time.

Q. Do you know whether the Penobscot was one of them?

A. I do not remember.

Q. Do you know whether you have ever used the Penobscot Mine from that day to this?

A. I do not remember.

Q. I offer in evidence the Directory of the Iron and Steel Works of the United States, the volume for 1904, pages 21 to 25, and follow the method which we have been following, on both sides of reading it into the testimony.

MR. LINDABURY: Objected to as irrelevant, unauthenticated, and as secondary evidence.

THE WITNESS: (Reading:)

“UNION STEEL COMPANY.

Practically all the stock of the Union Steel Company is owned by the United States Steel Corporation.

Union Steel Company; executive office, Empire Building, No. 71 Broadway, New York; Auditor's and Treasurer's office, Carnegie Building, Pittsburgh. Officers: W. B. Dickson, President; W. J. Filbert, Secretary; James J. Campbell, Auditor; and W. C. McCausland, Treasurer. Capital stock, \$20,000,000, all common.

On December 1, 1902, the Union Steel Company acquired all the capital stock and all the properties of the Sharon Steel Company and the Sharon Sheet Steel Company.

It also owns all the capital stock of the Donora Mining Company, the River Coal Company, the Republic Coke Company, the Sharon Ore Company, the Sharon Coke Company, the Mercer Valley Railroad Company, and the Donora Southern Railroad Company.

In addition it owns 60 per cent. of the capital stock of the Sharon Tin Plate Company and two-thirds of the capital stock

of the Sharon Coal and Limestone Company. It also owns (through the Donora Mining Company) two ore-carrying steamships, with an annual ore-carrying capacity of 228,000 tons.

The Union Steel Company owns the manufacturing plants named below, all of which are operated by constituent companies of the United States Steel Corporation.

BLAST FURNACES—4 COMPLETED AND 1 BUILDING.

Donora Furnaces, Donora, Washington County, Pa. (To be operated by the Carnegie Steel Company (of New Jersey). Two stacks, Nos. 1 and 2, each 85x22, built in 1902-4; not blown in down to April 30, 1904; four Kennedy stoves, each 100x24; fuel, Connellsville coke; ore, Lake Superior; product, basic open-hearth pig iron; estimated total annual capacity, 365,000 tons. Equipped with two Heyl & Patterson pig-iron casting machines. (The furnaces were partly built by the Union Steel Company and were completed by the Carnegie Steel Company (of New Jersey).—See page 6.

South Sharon Furnaces, Sharon, Pa. (Operated by the Carnegie Steel Company (of New Jersey). Three stacks, two completed and one building; No. 1, (completed), 100x22, built in 1900-1 and blown in in September, 1901; No. 2, (completed), and No. 3, (building), each 85x19, built in 1902-4; No. 2 not blown in down to April 30, 1904; No. 3 to be blown in later; No. 1 has four Cowper-Kennedy stoves, each 100x22; and Nos. 2 and 3 have each four Cowper-Kennedy stoves, each 90x21. Fuel, coke; ore, Lake Superior; product, basic pig iron; total annual capacity of the completed furnaces, 320,000 tons; of the building furnace, 120,000 tons; total, 440,000 tons. Equipped with two single strand Heyl & Patterson pig-iron casting machines. (Furnace No. 1 was built and formerly operated by the Sharon Steel Company; it was also operated later by the National Steel Company. Furnaces Nos. 2 and 3 were partly built by the Sharon Steel Company and the National Steel Company; No. 2 was completed and No. 3 is being completed by the Carnegie Steel Company (o
—See page 9.

Total annual capacity of the 4 completed furnaces, 685,000 gross tons; of the building furnace, 120,000 tons; total, 805,000 tons.

ROLLING MILLS AND STEEL WORKS—6.

Donora Steel Works, Donora, Washington county, Pa. (To be operated by the Carnegie Steel Company (of New Jersey). Built in 1902-3; twelve 50-gross-ton Siemens basic open-hearth furnaces with an annual capacity of 300,000 tons of ingots, four 4-hole soaking pits, and one 40-inch blooming mill; product, billets, blooms and slabs; annual capacity, 240,000 tons. Fuel, natural gas.—Not put in operation down to April 30, 1904.—See page 10.

Donora Works, Donora, Washington county, Pa. (Operated by the American Steel and Wire Company of New Jersey.) Built in 1900-1 and put in operation in September, 1901; 4 heating furnaces, one continuous and one right and one left hand Garrett finishing rod mills, 308 wire-drawing blocks, and 282 wire-nail machines; product, wire rods, bright and galvanized wire, barbed wire, wire nails, and staples; annual capacity, 200,000 tons of rods, 172,000 tons of wire, and 1,600,000 kegs of nails. Fuel, natural gas and coal. A galvanizing plant is connected with the works. (Formerly operated by the Union Steel Company.) See page 43.

Sharon Works, Sharon, Pa. (Operated by the American Steel and Wire Company of New Jersey.) Built in 1900-1 and first put in operation in May, 1901; first wire rods made in August, 1901; 3 continuous heating furnaces, 2 reheating furnaces, one continuous billet mill, 2 continuous rod mills, one tinplate bar mill, 180 wire-drawing blocks, and 181 wire-nail machines; product, tinplate bars, wire rods, wire, wire nails, galvanized wire, barbed wire, and staples; annual capacity, 97,000 tons of tinplate bars, 105,000 tons of wire rods, 86,000 tons of wire, and 900,000 kegs of wire nails. Fuel, producer gas and coal. A galvanizing plant is connected with the works. (Formerly owned and operated by the Sharon Steel Company.)—See pages 44-5.

Sharon Works, Sharon, Pa. (Operated by the American

Sheet and Tin Plate Company.) Built in 1900-1 and first put in operation May 16, 1901; 20 sheet and pair furnaces, 6 double annealing furnaces, twenty 26-inch hot mills, and 15 sets of 22-inch cold mills; product, black plates for tinning; annual capacity, 45,000 tons. Fuel, manufactured gas and coal. Make tinplates. (Formerly operated by the Sharon Tin Plate Company; later by the American Tin Plate Company.)—See pages 59-60.

Sharon Works, Sharon, Pa. (Controlled by the American Sheet and Tin Plate Company.) Built in 1901-3; not yet put in operation; 10 pair and 10 sheet furnaces, 3 double annealing furnaces, 10 hot sheet mills, (one 28x48, and eight 28x38-inch), and 6 cold mills (two 22x54 and four 22x48 inch); product, black sheets; annual capacity, 30,000 net tons. Fuel, coal and producer gas. (Partly built by the Sharon Sheet Steel Company; completed by the Union Steel Company.)—See page 59.

South Sharon Works, Sharon, Pa. (Operated by the Carnegie Steel Company (of New Jersey). Built in 1900-1; twelve 50-gross-ton basic open hearth steel furnaces with an annual capacity of 350,000 tons of ingots; first steel made April 30, 1901; 4 soaking pits, one 36-inch blooming mill, one 30-inch universal mill, and three 26-inch bullhead mills; product, blooms, billets and universal plates; annual capacity, 310,000 tons. Fuel, producer gas. Five additional 50-gross-ton basic open-hearth steel furnaces are projected. (Formerly operated by the Sharon Steel Company; later by the National Steel Company.)—See page 15.

Total annual capacity of the 6 works, 650,000 gross tons of open-hearth steel ingots, 550,000 gross tons of slabs, blooms and billets, 97,000 gross tons of tinplate bars, 45,000 gross tons of black plates for tinning, 30,000 net tons of black sheets, 75,000 gross tons of universal plates, 305,000 gross tons of wire rods, 258,000 gross tons of wire, and 2,500,000 kegs of wire nails.

TINPLATE WORKS.

Sharon Works, Sharon, Pa. (Operated by the American Sheet and Tin Plate Company.) Built in 1900-1 and first tin-

plates made in July, 1901; 24 sets; weekly capacity, 18,000 boxes of tinplates. Fuel, coal. Make black plates. (Formerly operated by the Sharon Tin Plate Company; later by the American Tin Plate Company.)—See page 63.

WIRE AND WIRE-NAIL WORKS.

Donora Works, Donora, Pa. (Operated by the American Steel and Wire Company of New Jersey.) Product, wire rods, plain, galvanized and barbed wire, staples and all sizes of wire nails. Annual capacity, 200,000 tons of rods, 172,000 tons of wire, and 1,600,000 kegs of nails. Wire department: Number of wire-drawing blocks, 308; sizes of wire drawn, from $\frac{5}{8}$ of an inch to 1-32 of an inch. Wire-nail department: Number of machines, 282; sizes from 2-penny spike to 2-penny nail. (Formerly operated by the Union Steel Company.)—See page 47.

Sharon Works, Sharon, Pa. (Operated by the American Steel and Wire Company of New Jersey.) Product, wire rods, plain wire, barbed wire, wire nails, galvanized staples, etc. Annual capacity, 105,000 tons of rods, 86,000 tons of wire and 900,000 kegs of nails. Wire department: Number of wire-drawing blocks, 180; sizes, from $\frac{5}{8}$ of an inch to No. 22 gauge. Wire-nail department: Number of machines, 181; sizes, from 3-penny fine to 60-penny. (Formerly operated by the Sharon Steel Company.)—See page 49.

Total annual capacity of the 2 works: 305,000 tons of rods, 258,000 tons of wire, and 2,500,000 kegs of wire nails.

GALVANIZING WORKS.

Donora Works, Donora, Pa. (Operated by the American Steel and Wire Company of New Jersey.) Number of galvanizing pans, 4; product, fence wire; annual capacity, 67,500 tons. (Formerly operated by the Union Steel Company.) See page 50.

Sharon Works, Sharon, Pa. (Operated by the American Steel and Wire Company of New Jersey.) Number of galvanizing pans, 3; product, fence wire; annual capacity, 28,-

000 tons. (Formerly operated by the Sharon Steel Company.) See page 51.

Total annual capacity of the 2 works: 95,500 tons.

WROUGHT-STEEL PIPE WORKS.

Sharon Tube Works, Sharon, Pa. (Controlled by the National Tube Company.) Equipped to produce wrought-steel pipe; sizes, from $\frac{1}{8}$ of an inch to 12 inches, outside diameter; annual capacity, 100,000 tons. (Formerly owned by the Sharon Steel Company.)—Never in operation and not likely to be operated on its present site.—See page 37.

SHARON STEEL COMPANY AND SHARON SHEET STEEL COMPANY.

The Sharon Steel Company and the Sharon Sheet Steel Company are no longer operating companies, their properties having been transferred to the Union Steel Company on December 1, 1902.

SHARON ORE COMPANY.

This company owns the Sharon iron-ore mine, in the Mesabi Range, in St. Louis County, Minnesota. All its capital stock is owned by the Union Steel Company. For further information concerning this company see page 77.

RIVER COAL COMPANY.

This company owns 1,500 acres of coal lands in Fayette County, Pa., the development of which has just been commenced. All its capital stock is owned by the Union Steel Company. For further information concerning this company see page 74.

DONORA MINING COMPANY.

This company owns the Penobscot, the Sweeney and the Donora iron-ore mines in the Mesabi Range, in St. Louis County, Minn., and the Volunteer iron-ore mine in the Marquette Range, in Marquette County, Mich. In addition it owns about 1,900 acres of iron-ore lands in the Marquette Range, in Mar-

quette County. Its capital stock is owned by the Union Steel Company. For further information concerning this company see page 77.

SHARON COAL AND LIMESTONE COMPANY.

The Sharon Coal and Limestone Company owns 7,157 acres of coal and limestone property in Butler, Mercer and Lawrence counties, Pennsylvania. Two-thirds of its capital stock is owned by the Union Steel Company. For further information concerning this company see pages 74-5.

SHARON COKE COMPANY.

The Sharon Coke Company owns 1,458 acres of coking coal lands at Masontown, Fayette County, Pa., and has 212 completed Otto-Hoffman retort ovens with a daily capacity of about 1,200 tons of coke. Its capital stock is all owned by the Union Steel Company. For further information concerning this company see page 75.

REPUBLIC COKE COMPANY.

This company owns 3,222 acres of undeveloped coal land and 511 acres of surface land in Fayette County, Pa. Its capital stock is all owned by the Union Steel Company. For further information concerning this company see page 75."

By MR. DICKINSON:

Q. You are acquainted with that publication?

A. More or less.

Q. Wasn't it published at the instance of the association?

A. I think so, yes.

Q. And your corporation was a member of it?

A. Some of our subsidiary companies, at least.

Q. Did the United States Steel Corporation subscribe for it?

A. No, I think not.

Q. Some of the subsidiary companies did?

A. Yes, and I have no doubt the Steel Corporation did this.

Q. And this continued along down constantly, did it not, that publication?

A. I cannot tell you to what date.

Q. The publication of it is controlled by the American Iron & Steel Institute, of which you were president?

A. Judge Dickinson, I do not know that this directory is published at all now. I will say that the American Iron & Steel Institute has taken over the work and office of the American Iron & Steel Association.

Q. They published that?

A. They did publish this last directory, and are receiving and publishing statistics.

Q. The same kind of statistics?

A. Similar statistics, I will say. Of course you must understand that I did not personally have anything to do with these statistics.

Q. Of course, I know you are too busy a man for that. Please look over what is set out there as to plants and products of the various concerns of the Union-Sharon Companies. That speaks as of the year 1903, does it not?

A. I have no doubt that is so, because this seems to have been published in 1904.

Q. See what period it covers, Judge, will you?

A. Corrected to August 1st, 1904.

MR. LINDABURY: The title page so declares.

By MR. DICKINSON:

Q. When did the Steel Corporation take hold of the Union properties—December 15, 1902, was it?

A. I think that is right.

Q. Now, state whether or not at the period that this book speaks of that concern had the properties and plants and products therein set out. Just pick that out and state.

MR. LINDABURY: That is a pretty broad question.

MR. DICKINSON: But it is easier than reading it.

MR. LINDABURY: But that is omnibus.

By MR. DICKINSON:

Q. State generally.

A. I think so, generally.

Q. Had there been any material change in the kind of products produced, or in the character of the works or the capacity of the works between the time the corporation took over those properties, and the time that book speaks of?

A. I think there had. I cannot give you the details, my memory is not good enough, but we commenced to work there immediately, expended very large sums of money from time to time finishing up furnaces.

Q. Is not that set out there? Suppose you look and see what you did after you acquired them.

MR. LINDABURY: Do you mean addition or development?

MR. DICKINSON: Yes.

THE WITNESS: For instance, you see, the furnaces were partly built by the Union Steel Company and completed by the Carnegie Steel Company of New Jersey.

MR. LINDABURY: Those are the Donora Furnaces you are speaking of?

THE WITNESS: Yes. I am speaking of the South Sharon furnaces, three stacks, two complete and one building, No. 1 completed, and so on; No. 3 furnace was building at South Sharon.

By MR. DICKINSON:

Q. I will ask you a question that may relieve you of some detail there, and that is this: Had you done any more than carry out and complete what was in process of construction or already planned, when you took over these properties? If so, what entire new addition not then contemplated or planned was added?

A. I cannot tell you exactly, but I am very sure we did extend the works, commenced extending them immediately, and we can give you evidence of just how much we expended, when and for what, following our purchase.

Q. I am not asking so much what you expended, but I am asking you whether or not you extended anything that was in process of construction or that was contemplated, with plans already adopted at the time you took that over?

A. I think we did materially.

Q. But what?

A. I could not tell you. I don't remember.

Q. How many furnaces did it have planned or in process of construction when you took it over?

A. I cannot answer that.

Q. I think you said five in your last answer.

A. You mean blast furnaces?

Q. Yes.

A. Five.

Q. How many did it have in 1903; did it have any more than that?

A. No.

Q. Open hearth furnaces; how many did it have?

A. It seems to me it had 24.

Q. When you took it over?

A. We built some additional.

Q. How many more did it have in 1903?

A. Than it had in 1902?

Q. I mean from the time you took it over until that book speaks of, had there been any increase in the open hearth furnaces?

A. I do not think there had. I do not think in 1904 there had been any increase in the number of furnaces which had been built or were contemplated when we bought it.

Q. How many mills?

A. That I am not so sure about. We commenced extending, but exactly when I cannot be sure.

Q. Do you remember how many blooming mills it had when you took it over?

A. I do not. I do not want to undertake to be specific there, because my memory is not good enough.

Q. I will see whether or not, carrying your mind back to that period and calling your attention to some things that were of general publication, that will recall your recollection. I call your attention to Government Exhibit 178, Volume IV, page 1518, which is an article of March 28, 1901, from the Iron Age:

"The Sharon Steel Company.—(By Telegraph)—Pittsburgh, Pa., March 27, 1901.—The Sharon Steel Company of

Sharon, Pa., will double the capacity of the new tube mill at Sharon, the additional cost being nearly \$1,500,000. The new plant will have a daily capacity of 400 tons of basic steel tubing instead of 250 tons, as at first proposed. Tubing will be made in one mill up to 6 inches in diameter, and in another up to 14 inches. The skelp mill will have a daily capacity of between 500 and 600 tons, or 200 tons more than at first proposed. The Sharon Steel Company will also make boiler tubes on a large scale."

Now, Judge, do you know whether it had a tube mill at that time, and whether it was about to double its capacity?

A. My recollection is it had a tube mill, but I am inclined to think the proposition to double its capacity was talk.

Q. Was which?

A. I am inclined to think the proposition to double its capacity was talk; only talk.

Q. How about the skelp mill. Do you know whether it had a skelp mill?

A. No; I do not remember.

Q. Do you know whether they were planning to make boiler tubes on a large scale?

A. No.

Q. I call your attention to Government Exhibit 179 on the next page, from the Iron Age of September 19, 1901, and ask you what your recollection is about certain things there-in mentioned.

MR. LINDABURY: Before you do that, I did not want to interrupt you, but I would like now at least to note an objection. Counsel having put in evidence unauthenticated telegrams and newspaper articles, he cannot now justify them or use them for the purpose of examining a witness or proving on cross-examination their truth or otherwise.

MR. DICKINSON: The articles were identified then.

MR. LINDABURY: As something published in the newspaper, yes.

MR. DICKINSON: And it has been shown that these articles were widely read in the trade and that all well-informed people in that business kept posted in the business through trade journals of this character.

MR. LINDABURY: Not that all well-informed people did.

MR. COLTON: That is what Mr. Roberts said.

MR. LINDABURY: Well, I did not hear Mr. Roberts' testimony. I do not think Mr. Roberts referred to these articles, did he?

MR. DICKINSON: I do not know that he was asked about this particular one.

By MR. DICKINSON:

Q. I will read:

"The Union Steel Company.—The new rod, wire and nail mills of the Union Steel Company, at Donora, Pa., are now in operation, and the concern are turning out rods, wire nails, plain and annealed wire, barb wire and fencing, and are giving employment to about 1,000 men. In connection with the mills already in operation another large plant is to be erected at once. This will be built by the Mathews Woven Wire Fence Company, who are an identified interest of the Union Steel Company. The concern will make patent woven wire fencing and will get their entire supply of wire from the Union Steel Company. In a short time the Union Steel Company will break ground at Donora for the building of a blast furnace, and either 10 or 12 basic open hearth steel furnaces. Some of the contracts for the blast furnace and the steel works have already been placed. Julian Kennedy is consulting engineer, and the greater part of the plans are ready. The blast furnace will be 22 feet in diameter at the bosh and 90 feet high. The contract for the iron work has been given to the William B. Pollock Company of Youngstown, Ohio. The contract for the blowing engines was placed some time since with the Mesta Machine Company of Pittsburgh. It is the intention of the Union Steel Company to eventually build a second blast furnace, and for this reason five blowing engines have been ordered, and these will be able to supply air enough for both furnaces. As yet none of the contracts for the basic steel plant have been let, but these will be given out before long. The Union Steel Company have fortified themselves with ore and coke properties, and with the erection of blast furnaces and steel works will have everything within them-

selves and be able to make their finished products from the ore up. The Mellon interests of Pittsburgh are largely interested in the Union Steel Company. The offices are in the Empire Building, Pittsburgh, and W. H. Donner is president, and S. H. Waddell, secretary. The concern have already sold the greater part of their output of nails and wire for the next two months."

As described there, state whether or not you would call that a rounded-out proposition as you have used that term hitherto.

A. Well——

MR. LINDABURY: You mean as it existed or as the newspaper article described it?

By MR. DICKINSON:

Q. I say as described here.

A. I think that is an article calculated perhaps to influence the sale of bonds or stock. It is a pretty good proposition. I did not want to characterize it as not a very good proposition.

Q. Judge, they had the ore, did they?

A. Yes.

Q. And they made pig iron?

A. Expected to make pig iron.

Q. Didn't you say that they had a large amount of very valuable ore?

A. Not at the time we bought it; it was a little earlier.

Q. At the time you bought it, it was still rounded out a little more in the value of ore at least?

A. You can start to make a circle at any point in the circle.

Q. As described here and with the conditions that were met up to the time you got it, where did the initial and ending point of that circle fail to come in contact, so far as making it a rounded out proposition?

A. Well, I do not think from the starting point they could see the middle of the circle.

Q. Let us see. They had ore, didn't they?

A. They had some ore, yes.

Q. At the time you took them over?

A. Yes; they had some very good ore.

Q. About how much did they have?

A. I have forgotten that now.

Q. Could you approximate it?

A. No. They had some good ore, though.

Q. For a concern of that sort, what would you call a sufficiency of ore to make it a well rounded out, self-contained—I believe that is the language—proposition?

A. What quantity?

Q. What quantity, yes.

A. If they had 75 years' supply of good ore for all the furnaces that they had built or contemplated building, I should think that would be a very good supply, and be a good, natural and long step towards providing a self-contained or rounded out proposition.

Q. Well, it is rather an elastic element you put in there, isn't it, all that they might have contemplated building; but taking what they then had planned, what would you say as to 70,000,000 tons of ore as being sufficient, so far as ore is concerned, as to making it a rounded out proposition.

A. I should think that would be a pretty good supply.

Q. They had no railroad transportation, did they?

A. No.

Q. But they had furnaces?

A. They had some furnaces.

Q. Then they manufactured up to the finished products, did they not, in a great many things?

A. Some finished products.

Q. What did they make that you recall?

A. Well, they were prepared to make some wire, some tubes, some sheets, some skelp.

Q. Tin plate?

A. Some tin plate.

Q. Nails?

A. I think so. Some of their works were not very well put up. Some of their work had to be done over again after we got them.

Q. Do you mention plates among the things that they made?

A. Yes; they made them, or contemplated making them.

Q. They made billets, blooms and slabs?

A. That was to my mind, Judge, a pretty small proposition to try and succeed in competition with Jones & Laughlin, and such other concerns as that, at that time. You see, you are dignifying the proposition above my ideas of it.

Q. Yes, I know our ideas may differ as to that. Now, Judge, tell me how much larger at the time you took over these Union properties was the Jones & Laughlin than the Union properties, in capacity.

A. That I cannot answer.

Q. What was the capital, at the time, of Jones & Laughlin?

A. I think it was very much smaller. I do not think that would have much to do with it. That is, the nominal capital of a concern does not have much to do with the values of the properties.

Q. You do not think the question of capital had much to do with it?

A. I am speaking about the nominal capital.

Q. The nominal capital?

A. Yes.

Q. Well, the actual capital?

A. The actual capital investment?

Q. The actual investment; how did that compare at that time, at the time you acquired the Union?

A. Well, I should think the ability of Jones & Laughlin to manufacture and sell some products was very much greater. They did not, at that time, I think, have some of the kinds of property the Union Steel had, like ore and perhaps the same limits of product.

Q. Can you give any statement as to the comparative capital invested by these two companies at that time?

A. No, I cannot.

Q. Can you give any statement?

A. I should think the total capital invested by the Union Steel was larger than Jones & Laughlin at that time.

Q. Larger than all of Jones & Laughlin?

A. I should think so, yes.

Q. How about the capacity of the two plants compared;

that is, Jones & Laughlin at that time, and the Union with what it had, and what it was in process of building when you took it over and which you finished?

A. I cannot answer that definitely, but don't you see, the total capacity might be one thing, whereas the separate capacity, with respect to any one line would be another thing. If you mean the total tonnage capacity of the Union Steel, it might be larger than the total tonnage capacity of Jones & Laughlin in all lines, but that would not have much to do with the question.

Q. Name what lines, if any, that you know at that time, that Jones & Laughlin exceeded in capacity the Union Steel Company.

A. Well, I should think in steel, semi-finished steel.

Q. Anything else?

A. That is pretty comprehensive.

Q. That is most comprehensive, isn't it, of all, when you state that?

A. Yes.

Q. Do you know what the tonnage of either was?

A. No, I do not.

Q. Did you know Mr. A. W. Mellon?

A. Yes.

Q. He was president of that company, was he?

A. Of what company, the Union Steel?

Q. Yes.

A. No, Mr. Donner, I think, was president, wasn't he?

MR. LINDABURY: No, I don't think either of them was.

By MR. DICKINSON:

Q. You knew Mr. Mellon?

A. Yes, I knew Mr. Mellon.

Q. Was he a man that could command large means or not?

A. Yes, he was a wealthy man.

Q. A wealthy man?

A. Yes.

Q. Connected with banking interests?

A. Yes.

Q. Head of one of the large banks there in Pittsburgh?

A. Yes; he and others.

Q. His brother?

A. Yes.

Q. Well, was Mr. Frick a man of means at that time?

A. Yes.

Q. He was identified with the Union, wasn't he?

A. Yes.

Q. Largely interested in it?

A. Yes.

Q. Did you know John Stevenson, Jr.?

A. I did not know him then; I met him afterwards.

Q. Was he a man of means?

A. Judge, you know, and I do not remember, but wasn't the Union Steel made up, or didn't it take over the Sharon properties and the Donora properties?

Q. Well, the Union and Sharon were combined, and then you took over the two together?

A. Yes, the Sharon and Donora combined in Union, didn't they? And then we took over the Union?

Q. Yes, then you took over the Union after the combination. These men were financially strong, were they not?

A. Yes, they were comparatively strong, but when you speak of \$50,000,000—

Q. I do not mean compared with the United States Steel Corporation, but compared with Jones & Laughlin and other concerns?

A. Yes.

Q. Had there been any putting together of interests or any combination which was as large as the Union and Sharon combined between that time and the formation of the United States Steel Corporation?

A. Between the time the Steel Corporation was formed and when we bought the Union Steel?

Q. At the time the Union and Sharon were together, had there been any combination within that time as large as that?

A. I do not remember dates. When was the Republic Iron & Steel formed, for instance?

MR. COLTON: Before the formation of the Corporation.

THE WITNESS: I cannot answer that from memory.

By MR. DICKINSON:

Q. Do you know of any large combination between the formation of the Corporation and the time you took over the Union Sharon Company other than the combination of the Union and Sharon properties?

A. I do not think of any. Judge Dickinson, it is only fair to say that the Union Steel Corporation up to the time we bought it did not promise to be successful. We had no doubt, and I am sure it was the general feeling, that the company would not succeed, and I firmly believe it would have failed as a manufacturing concern. I do not deny that Messrs. Frick and the Mellons were able to finance a good sized corporation, but we did not regard those as successful or promising success.

Q. They had men who were able in it, you say?

A. Who, for instance?

Q. Mr. Frick.

A. Mr. Frick was not giving it any attention. Mr. Mellon was not a manufacturing man.

Q. Mr. Donner was, wasn't he?

A. He had ability, yes.

Q. Hadn't Mr. Stevenson experience largely in manufacturing?

A. I knew of him considerably and have seen him since. He was a man who built plants to sell.

Q. And built them so good that they were sold, didn't he?

A. He did. He was a man of peculiar disposition, a Scotchman, and sharp.

Q. And he had a faculty of getting in other people's way and getting bought out, had he?

A. Yes, I think he had, more or less.

Q. They had some capital, and they had some men of ability, with large financial resources?

A. Yes. And there were men in there who undoubtedly got very tired of it.

Q. And they had furnaces which you said you needed?

A. Yes; that is true.

Q. Now, had there been any failure up to that time in any particular?

A. Well, the books will show. I doubt if their books will show any success.

Q. I am not asking what their books show. I am asking you if you know any fact that had transpired up to the time you took over the Union Sharon properties which showed a failure on the part of that company.

A. I knew then very well the talk of the town, so to speak.

Q. Wasn't it the talk of the town that they were developing and increasing their facilities into a very large concern, compared with other concerns outside of the United States Steel Corporation?

A. No, it was not; it was the opposite of that.

Q. How about the talk of the papers?

A. I do not know; I don't remember.

Q. You are a reader, are you not, of the Iron Age?

A. More or less. I cannot say that I ever read the Iron Age carefully and thoroughly. Anything I was particularly interested in I read.

Q. Where you were about to buy properties?

A. I would not read the Iron Age to find out the value of any property that I was going to buy.

Q. You would not depend upon it in that line of inquiry?

A. No.

Q. You would not pay any attention to that?

A. I would not say that. If they purported to publish a fact and they said that, I would read what was said, but I would not buy property upon the publications in the Iron Age or any other periodical.

Q. Do you know whether or not the Union Steel Company and the Sharon Steel Company were the largest individual makers of rods, wire and wire nails, outside of the American Iron & Steel Company?

A. No; I do not know that.

Q. Do you know to the contrary?

A. No.

Q. Do you know that they had complete and modern plants?

A. They had modern plants. Some of them were good and some of them were not so good.

Q. Which were not good? Can you specify which they were?

A. I cannot give you the details now. I know some of their plants were not well constructed, quite to the contrary, some of their mills. At that time I knew very well. You must understand that when we were considering the purchase of any properties at the time we endeavored to and did make very careful inquiry into them. We visited those properties and we called our presidents together and had them make examinations, and we had reports of all sorts and descriptions, and at that particular time I knew all about them, and considerably in detail, but after the purchase was made that was the end of my interest in that question. We had them for good or bad, and began to improve them, but I have had all these years so many other things to consider that I have not carried these details in my mind, and I must plead inability to remember the details.

Q. And you cannot give any statement of fact that indicates inefficiency on their part? That is, you cannot specify anything?

A. No, except to say that we had to rebuild a good many different things. I remember that distinctly.

Q. Did you have to rebuild any new plants, blast furnaces?

A. I think the blast furnaces were all right.

Q. How about open hearth furnaces?

A. The open hearth furnaces were all right.

Q. How about the nail mills and wire?

A. I do not remember; I think most of them were all right. The Donora plant was better than the Sharon plant, as I remember, very much better. I think Mr. Donner built the Donora plant, and I think that is pretty good; very good.

Q. Don't you know that upon the merger of the two companies the capital stock was between \$40,000,000 and \$50,000,000?

A. Well, if you say it, I am willing to admit that I knew it.

Q. No, I was just asking if you know.

A. I have great confidence in you, Judge; I do not remember.

Q. Well, I am not on the stand.

Do you know anything about their planning to build a rail mill at Donora?

A. No, I do not. I do not remember to have ever heard it.

Q. If you did know it, it has passed out of your mind?

A. Yes, if I ever knew it I have forgotten it.

Q. Do you know of any announcement or official statement that was made in the Iron Age that they proposed to build a steel rail mill at Donora or Sharon?

A. I do not.

MR. LINDABURY: One moment. Is there any evidence of an official statement?

MR. DICKINSON: Yes.

MR. COLTON: It is called official here. We do not know whether it is or not.

THE WITNESS: What date?

By MR. DICKINSON:

Q. I will read it.

“October 30, 1912. Government Exhibit No. 183,” page 1524:

“A New Rail Mill.—In all probability the Union Steel Company will build a large rail mill at Donora, Pa. An official statement of the matter has been issued as follows: ‘We propose to build a steel rail mill either at Donora or Sharon which will cost \$5,000,000, that will be almost as large as the Edgar Thomson Works of the Carnegie Company. We expect to expend from \$25,000,000 to \$30,000,000 in improvements. We have had plans prepared for an extension of the West Side Belt Line into the Connellsville coke country and down the Ohio, along the Beaver and through Sharon to Elk Harbor.’ ”

Do you remember seeing that notice?

A. I do not. I am very much surprised to hear you read it. Who signed it?

Q. It is an announcement in the Iron Age. I have just read it as it is. I have not added anything.

MR. LINDABURY: It is one of those accelerating statements that come out.

MR. DICKINSON: It seemed to accelerate because it was just four days after that when it was taken over by the United States Steel Corporation.

MR. LINDABURY: Yes, but negotiations were under way at that time. Those announcements always help negotiations that are pending, or are thought to do so.

THE WITNESS: Well, Judge, I do not believe I ever heard it; at least I have no recollection.

By MR. DICKINSON:

Q. Judge, you stated in your direct examination that the United States Steel Corporation bought pig iron sometimes to cover necessities. Do you not know that at times in buying pig iron it was influenced by a desire or purpose to maintain prices of pig iron for the effect it would have upon the prices of finished products?

A. I have no recollection of anything of that kind.

Q. Do you not know that such a purpose was the policy of some of the constituent companies?

A. It might have been in the early years, possibly.

Q. Within what period?

A. Well, as I said this morning, I am unable to state the exact dates, but I attempted to give to you circumstances which will enable you to form some idea perhaps.

Q. I will call your attention to the minutes of the Carnegie Steel Company of May 11th, 1903, Government Exhibits, Volume II, page 491. I will first ask you whether or not you at that time were a director of that company?

A. As I stated this forenoon I was nominally a director, and I explained to you what I meant by that.

Q. In that connection I will ask you whether or not, being a director, you looked over the minutes of that company to inform yourself of what they were doing?

A. I am afraid I did not, Judge. I ought to have done so.

Q. Well, I will read this and see what you think about this: "Purchase of Iron for Third Quarter.

"Mr. Corey: I should like to have the views of the Board as to the advisability of buying iron for the third quarter. There is understood to be about 65,000 tons in the market for

the third quarter's delivery, and if we buy at this time it will be largely for the purpose of preventing the furnace people from offering it around, and thus demoralizing the market. If we could buy up all that is to be had, it would undoubtedly do a great deal of (sic) strengthen the situation. The price would be around \$18.00 Valley.

"On discussion it was agreed that iron for the third quarter should be purchased on assurances from the furnace people that 65,000 tons was all the available iron for that quarter and that no more would be put on the market."

Did you ever attend any of the meetings while you were a director?

A. I did not.

Q. Then you do not personally recall that, not being present?

A. No.

Q. What do you say as to the facts recorded there, assuming them to be true, whether that is calculated to foster competition and fair dealing as to competitors?

A. Well, that would not hurt competitors, would it?

Q. How about prices——

A. It would not hurt other purchasers of iron. It might prevent the demoralization of finished products.

Q. How about prices? Suppose they had sold finished products upon the price of pig iron as a basis.

A. Then this would be a benefit to them.

Q. A benefit to the Carnegie Company?

A. And a benefit to the others, too.

Q. Would not they have to pay more?

A. Oh, no; that would only sustain the market; that tendency would be to sustain the market. Of course, you must remember the furnaces were producing iron all the time. If the competitors of the Carnegie Company had sold their finished products on the basis of these prices, then it would be to their interest to have these prices sustained.

Q. Whose interest?

A. Of the competitors who had purchased pig iron at these prices, and sold the finished steel on the basis of them.

Q. But suppose people had purchased and had contracts

with the Carnegie Company for finished products of the Carnegie Company, or semi-finished products, for it would be semi-finished products, and the price that they were to pay was to be based upon the ruling price of pig iron at the time the thing was delivered, would it be to their interest to keep up the price of pig iron?

A. That would depend upon circumstances, of course. If they had also sold their steel against those prices, then it would be to their interest to have the prices maintained, don't you see?

Q. But if they had not and they paid a higher price?

A. There might be circumstances which would make it for the interest of purchasers of semi-finished products to have the price of pig iron sustained. Of course that is possible. It would depend upon all the circumstances.

Q. Well, how would it foster trade to keep up——

A. (Interrupting) It would not extend it.

Q. (Interrupting) How would it foster trade to keep up the price of pig iron, which was the base of all iron and steel products; wouldn't it keep up the prices to the consumer of iron and steel products?

A. As a rule, the reduction of prices, particularly extreme reductions, do not increase trade. As a rule, the contrary is true.

Q. Do you mean people do not buy when it is cheaper?

A. I mean when prices begin to go down, then as a rule the general public declines to purchase, and wait until they get to some point where perhaps they find they are not going lower; very frequently wait until they go higher again before they buy.

Q. But if it goes down and gets to a steady point, they are more apt to buy there than to wait until they get to a higher point?

A. Not particularly, no.

Q. So cheapness of article, then, has nothing to do with stimulating business and purchases?

A. The purchase of iron and steel is not just the same as the purchase of ordinary clothing and something to eat, it is a different kind of business.

Q. Does not keeping up the price of pig iron tend to enhance the price of things out of which pig iron is made?

A. Yes; that is, it tends to keep up the prices; not to enhance them, but to keep them up.

Q. To keep them from going down, then?

A. Yes; that is it.

Q. Now, I will call your attention in that connection to the meeting of the executive committee of the Steel Corporation of May 12, 1903, Volume III, Government Exhibits, page 972:

“Executive Committee Meeting, Tuesday, May 12th, 1903.

“Present: Messrs. E. H. Gary, chairman; C. M. Schwab, Charles Steele, E. C. Converse, William Edenborn, James Gayley.

“Purchase of Pig Iron.

“In regard to the proposition to purchase pig iron for the third quarter of this year, the President stated in substance: That he believes we ought to purchase 75,000 to 100,000 tons at the best price we can; that this would be advantageous at present prices because of the large amount of finished material we sell at prices dependent upon the price of pig iron; and therefore we ought not to endeavor to put down the price of the iron; that the proposed purchase would not be at all speculative because we have sold the steel to be made from it.”

Now, you were a seller; that is to say, you had ore and you produced pig iron and you produced things made out of pig iron?

A. Yes, sir.

Q. Now, would not that have the effect of keeping up the price or preventing a decline in price of the articles that you made and were offering for sale out of pig iron or the products of pig iron?

A. I should say yes to that, as I understand your question. Will you let me make a comment on this?

Q. Surely, Judge. After you answer a question I want you to make all the explanations you want.

A. Thank you, you are very generous.

Q. No, it is not generous.

A. It is very fair; I appreciate it. Mr. Gayley was first vice-president. Now, undoubtedly from this, he was urging perhaps in representing the views of the Carnegie Company that the Carnegie Company buy pig iron at \$19 per ton, arguing that the Carnegie Company was interested in the high price of pig iron, because that more or less determined the price of semi-finished steel. Now, I objected to that. I admitted, of course, that they were interested, pecuniarily interested in a high price for pig iron for the reasons I have just suggested, but I said it seemed to me \$18 was a good price.

Q. I was just going to read that.

A. Yes; \$18 was a good big price, and I did not believe in paying \$19 for pig iron which seemed to me was more or less a fictitious price, simply because we might be interested in it. That was my position.

Q. You were the chairman?

A. Yes.

Q. You said, it appears there, "it seems to me \$18 is a good, big price. I am very well satisfied to have the market sustained"——

A. Sustained at \$18——

Q. I am reading it just as it is.

A. Yes.

Q. "I agree with you that we are interested in having pig iron maintained, but I think we ought to be satisfied with \$18.

"Mr. Gayley: I would rather buy it at \$19.

"The President: I would favor \$19 or \$18.50.

"Upon motion, duly seconded, the matter was referred to the Finance Committee."

A. Yes.

MR. LINDABURY: You are getting along so well and so fairly that it prompts me to ask you to refer the Judge to the minute on the preceding page, which is all connected with it and is part of the same transaction and indicates the same attitude, under the head of "The Chairman."

MR. DICKINSON: I will bring that out first.

MR. LINDABURY: If you don't mind.

MR. DICKINSON: What part do you want first?

MR. LINDABURY: Under the head of "The Chairman."

By MR. DICKINSON:

Q. At the request of Mr. Lindabury, Judge, I call your attention to the executive meeting Tuesday, May 5, 1903, at page 970:

"PURCHASES OF PIG IRON.

"For July, August and September, 1903.

"The President stated that he would like to obtain the views of the Committee in regard to the advisability of the purchase of about 30,000 tons of pig iron at \$18.50 for the third quarter of 1903, and for which we would exchange coke at the rate of \$3 per ton; that we will require about 100,000 tons in that quarter; that he believes we ought always to be buyers of some pig iron; that it would be better to even shut down some of our high-priced furnaces and be purchasers, that the price of finished steel products being regulated by the price of pig iron, we ought not to be endeavoring to get the cheapest iron; that we ought to maintain the price by little purchases; that \$1 a ton is such a little thing compared with the advantages we receive in the finished products; that if we had purchased pig iron there would not have been the present downward tendency in it.

"The Chairman: I would not be in favor of making the purchase. The price for our coke should be \$3.50. We have bookings enough now to justify us in the purchase of 30,000 tons for those months, but can we spare the coke? I do not think we ought to buy pig iron at prices considerably higher than the price will be when we need the iron. I would hope that the business conditions are such that next July and August we have to buy pig iron at \$18.50 or \$19 a ton, but I do not think it is necessary to buy it now. The price advanced from \$16 to \$21 because of its scarcity, but the price of finished steel did not advance. I would like to see pig iron sift down to about \$16.50 and stay there.

"Mr. Gayley: The first contract made for coke was at \$3.50. The Inter-Company price is \$2.60 plus. I think we

ought to hold the price of pig iron at \$18.50 and that it is important for us to stay in the market and buy at \$18.50; and rather than miss the deal I would recommend the exchange on the basis of \$3 a ton for coke.

“Upon motion, duly seconded, it was voted that the matter be placed in the hands of the President to act.”

By MR. DICKINSON:

Q. Now, turn over to May 26, page 973.

MR. LINDABURY: May 12th is the minute of the next meeting, and that you have already read.

MR. DICKINSON: Yes.

MR. COLTON: There is a difference in the quantity of iron in the two, but relating to the same subject.

THE WITNESS: I presume it was the same thing. I presume the President acted. Of course you will see, as I said the other day, that concerning some questions of policy in the early history of the Corporation we were not in entire accord. I do not question the motives of anyone, but the ideas of some of our people, some of the old regime concerning questions of policy, were too narrow. The idea of making the most money that could be made, even by taking advantage of conditions and the misfortunes of others, never appealed to some of us, and yet it was believed by people in earlier years to be good business.

By MR. DICKINSON:

Q. Now, you checked that, I understand?

A. I endeavored to check it. In earlier years I did not check it as much as I would like to have done, I sometimes gave in to some extent; I assented to things or allowed things to go to some extent in earlier years, I must admit.

Q. If you had fallen in with it in full sympathy at this time what would have been the effect?

A. If I had fallen in with it we would have bought pig iron probably at a higher price and earlier than we needed it, and it would have had the effect of higher prices for semi-finished steel products; in other words, it would have had a tendency to establish a fictitious market for what I would consider improper and unfair purposes. Of course, I give you the facts; you

may make the best of them, that is all; I cannot change the facts.

Q. I will proceed with the meeting of May 26, 1903:

“Present: Messrs. E. H. Gary, Chairman; C. M. Schwab, Charles Steele, James Gayley, E. C. Converse.

* * * *

“PURCHASES OF PIG IRON.

“The President reported the purchase of about 40,000 tons from the Valley Furnaces and 30,000 tons from Mr. Snyder at \$18.50, with the privilege of cancelling any portion not shipped by the 1st of October. The President stated that he believes the purchase at this time has been a very wise thing.”

So the purchase, it appears from that, was made at \$18.50?

A. Yes.

Q. That was higher than the price you indicated you would be satisfied with?

A. I have no doubt I was dissatisfied with that, and in later years prevented it.

Q. Now, I call your attention to this question of policy of these subordinates, and to Government Exhibits, Volume II, page 508, a meeting of the Carnegie Steel Company, November 13, 1905. The only part I will read is on page 509, unless you want something preceding read.

MR. LINDABURY: We will see what it is.

MR. DICKINSON: The part I will read is this, and then I will read any other part you want:

“Mr. Dinkey: * * * It has always been the opinion of this Board (and I think of everyone connected with the Corporation) that Carnegie Steel Company should be a buyer of pig iron, so as to assist in controlling the price.”

Who was Mr. Dinkey?

A. He was President of the Carnegie Steel Company.

Q. What position does he hold now?

A. The same position.

Q. And has held that position right along?

A. He has.

Q. And Mr. Corey was President at this time?

A. President of the United States Steel Corporation.

Q. In 1905?

A. Yes. I want to say that there was no justification whatever for that statement of Mr. Dinkey. It did not reflect the policy or views of the United States Steel Corporation.

Q. How about Mr. Corey's views and Mr. Schwab's?

MR. LINDABURY: Mr. Schwab was not connected with the Steel Corporation at that time.

THE WITNESS: I think those had been Mr. Schwab's views, and I think probably at that time they were Mr. Corey's individual views.

By MR. DICKINSON:

Q. How about the views of the Board of the Carnegie Company, excepting yourself?

A. That I cannot answer.

Q. You cannot answer that?

A. No; when questions of policy were involved the opinions of the boards of the subsidiary companies did not have any weight or effect, except perhaps as to the individual action of the officers of those companies at times when, as in the early years, sometimes they did act without the knowledge of the United States Steel Corporation officials. It has been stated here in the testimony that in earlier years there was some disagreement between myself and some other officials of the Corporation concerning certain questions of policy. That grew out of the fact that Mr. Schwab and Mr. Corey had been brought up in the steel business under different circumstances and had notions which were not in accordance with the known notions of those who controlled the United States Steel Corporation. I certainly have no intention of trying to say anything personal concerning any of these men, but I want it distinctly understood that these notions expressed by these gentlemen in those days, which might have been in accordance with the views of what I call the old regime, are not and never were the views of those who controlled the policies of the United States Steel Corporation. That is an answer to your previous two or three questions, and what you have read.

Q. You speak of the known views and ideas of this old regime——

A. No, you have not got that quite right.

Q. What?

A. That word "known" related to the policies of the Steel Corporation.

Q. Well, you knew of the previous policies of the Carnegie Company and you also knew of the views of Mr. Dinkey and Mr. Schwab and Mr. Corey and Mr. Gayley.

MR. LINDABURY: At what time; as they developed them or at the time of the formation of the Corporation?

MR. DICKINSON: Well, yes; at the time of the formation of the United States Steel Corporation and during the period covered by these minutes that I have been reading from the Carnegie Company.

THE WITNESS: I did to some extent. You remember the testimony of Mr. Schwab the other day in this court room, which was very frank, wherein he said that he withheld from me certain information. He believed he was right and thought he was justified. I would think I knew exactly what our people were doing, but in earlier years I did not always know. A question would come up for discussion before a committee, for instance, or it would come up in my office, when the president would be consulting me, and I would decide the question in the negative, and supposed that settled it for all time; but perhaps some time in the near future the question might come up again and I would not be consulted the next time, and action would be taken in accordance with the view of some one else. It took us some time to eradicate some of the things which our committee believed were wrong.

By MR. DICKINSON:

Q. But you took no steps, you or those who had the same ideas of policy that you did and were prominent in the Corporation, to find out from the examination of the minutes of the subordinate companies what they were actually doing?

A. Well, Judge, I did not know in those years that they kept this kind of minutes. I do not consider those conversations that the Carnegie directors had in earlier years minutes

that are natural or proper minutes of a board of directors, and I did not suppose they were putting into what they called minutes conversations like you produced here.

Q. You did not think they were making a record of them?

A. I am very glad you have them, though.

Q. We certainly are. You did not know they were making a record of that sort?

A. No, I did not. I did not know they were talking in that way, is what I mean to say.

Q. Well, the fact is, you did not know what they were doing, as shown in the minutes, did you?

A. Not all in the beginning.

Q. And you did not know anything about the minutes, did you?

A. Well, when?

Q. Well, up to 1904, say, or 1905.

A. I did not know anything about those records.

Q. How about the other subordinate companies?

A. Some I did and some I did not.

Q. Now, which ones did you know about, the National Tube; did you keep up with their minutes?

A. I think I knew the National Tube after the first two or three years; I should think so.

Q. After the first two or three years of their minutes?

A. Yes.

Q. How about the American Steel & Wire; did you know what they were doing, as shown by their minutes?

A. I think so; certainly after the first two or three years.

Q. But this Carnegie Company, that had been carrying on such extreme character of competition, you did not keep up with their minutes at all?

A. Well, you characterize their competition.

Q. I have not put it quite as strong as you have; I have modified it a little.

A. Well, they said a good many things that I would not approve of, I must admit that; and it was because some of these things would occasionally crop out, that commencing perhaps about 1904 I began taking very active steps to eradicate everything I believed wrong and not in accordance with

what were the determined policies of the Steel Corporation from the beginning.

Q. Do you know anything about the policy of Mr. D. G. Reid in respect of the lines of competition and attitude of the Corporation that you have been speaking of?

A. I do not know much about it, Judge.

Q. How about Mr. Converse?

A. I don't know much about that. I know the executive committee was abolished about 1903.

Q. How about Mr. Edenborn, what was his pronounced attitude, if any, on this question of the policy of the Corporation, as was indicated to you?

A. May I give you my impression?

Q. That is what I am trying to get.

A. I think generally the leading men in the iron and steel business, which would include the gentlemen you have mentioned, had notions concerning the management of corporations and the treatment of competitors and others that are considerably at variance with the policies of the Steel Corporation from the beginning, from the time of its organization, and the policies as carried into effect certainly for the last eight years or more. Now, the trouble is, it is rather embarrassing for you to compel me by your questions to say this, because I dislike to——

Q. (Interposing) It is not embarrassing me, Judge, not at all.

A. I know, but it is me, because I dislike to criticise anyone, any individual.

Q. I am not asking for criticisms?

A. It amounts to that when I give you my views.

Q. Well, the facts I want, Judge, are these: Name those of the members of the Executive Committee of the United States Steel Corporation who from the time when you started upon the policy that you have indicated as being that of the Corporation were with you in that view; we will first take up Mr. Edenborn. I believe I asked you about him and Mr. Converse and Mr. Schwab and Mr. Gayley. Were their views in full accord with you in the beginning?

A. I do not think they were all the time.

MR. SEVERANCE: Pardon me. You said Mr. Gayley. He was not on the Executive Committee.

MR. COLTON: He was in that pig iron raising business.

THE WITNESS: Part of the time, but not from the beginning, but for a short time.

Q. Who did compose the Executive Committee?

A. You have the names there, in addition to those you have stated.

Q. Mr. Roberts?

A. Mr. Roberts.

Q. Who else?

A. Mr. Steele, for a short time, and Mr. Perkins for a short time.

Q. Are you sure about the Executive Committee?

A. Yes, I think so. I think the chairman of the Finance Committee was ex officio a member of the Executive Committee, and when Mr. Perkins became chairman of the Finance Committee he then became a member of the Executive Committee, and I think he met on some occasions before the committee was abolished.

MR. SEVERANCE: Look at page 964, of Volume III. There is a meeting at which Mr. Perkins and Mr. Steele were present.

MR. DICKINSON: I am looking further back than that. April 9th, 1901, Volume II, page 557.

THE WITNESS: That is when we first started.

By MR. DICKINSON:

Q. The Executive Committee here shown is composed of E. H. Gary, chairman; C. M. Schwab, D. G. Reid, William Edenborn, E. C. Converse and Percival Roberts. Which of those whom I have named there coincided with the policies that you have spoken of of fostering competition and absolutely fair treatment of competitors?

A. Well, of course I have not characterized their action or disposition as you characterize it. You have referred to certain things in the testimony this afternoon like purchasing pig iron to sustain the market and some other things. I do not think Mr. Converse or Mr. Reid or Mr. Edenborn or Mr.

Schwab had exactly the same notions that the rest of us had concerning some of these things.

Q. That only left you and Mr. Roberts of that first committee?

A. That is about right. Mr. Steele was on the committee, I think a member of the committee, but he did not attend very much.

Q. Then of those who attended how was Mr. Roberts?

A. Mr. Roberts always stood with me as I remember it.

Q. So you and he were in the minority. How long did you continue that way? I do not mean in power, but I mean in numbers?

A. If you follow the minutes you will find at a pretty early period, I cannot give you the exact date, but not a very long time after the Steel Corporation was formed I neglected to call any meetings of the Executive Committee. I did not have any, and we did not have any.

By MR. LINDABURY:

Q. You did not mention, perhaps you overlooked it, that Mr. Bacon was also on that committee.

A. He was on at the start because he was chairman of the Finance Committee.

By MR. DICKINSON:

Q. He don't seem to have attended any of the meetings.

A. He attended some of them. Mr. Bacon was of course very favorable to me. These three gentlemen, Judge Dickinson, actually believed that they were doing no wrong in their decisions, you understand.

Q. I understand.

A. It was a question of opinion.

Q. Yes, and of policies and methods.

A. Yes. I remember making a statement to the Executive Committee, for instance, very early in the history of the Corporation to the effect that if this Corporation was to survive, was to continue in existence, it must be on the basis of so conducting itself that no one had any good reason to complain of its management, and that was my disposition and my effort, and I was sustained fully by a member of the

Executive Committee and by the Finance Committee, who determined really the policies of the Corporation, and eventually, by everyone, and by that I do not mean to take any credit to myself for originating this idea or insisting upon the idea.

Q. Who did originate it, Judge?

A. Let us say all of us. All of us who finally succeeded.

MR. LINDABURY: He did not say he did not originate it; only that he did not want to take the credit.

By MR. DICKINSON:

Q. I am asking who originated it.

MR. LINDABURY: He said "all of us."

MR. DICKINSON: The Judge is modest.

THE WITNESS: I do not want to be over-modest.

By MR. DICKINSON:

Q. Then who did originate this policy of fostering competition and so maintaining the policies of the Corporation as to develop trade and foster competition and prevent wrong and imposition of any kind?

MR. LINDABURY: He has answered it.

MR. DICKINSON: How?

MR. LINDABURY: He said "all of us."

THE WITNESS: I was one of them.

By MR. DICKINSON:

Q. Who were the others that originated that, Mr. Schwab?

A. Mr. Schwab today, I think, is as clearly convinced of the necessity, from a business standpoint, and every other standpoint, of doing all that I can claim was the intention of the U. S. Steel Corporation concerning proper and decent treatment.

Q. He is a well-behaved competitor, is he?

A. Well, the tone of the iron and steel industry in this country has very materially changed for the better, Judge Dickinson, I believe.

(Whereupon an adjournment was taken until Wednesday, June 11, 1913, at 10:30 o'clock a. m.)

SEVENTY-THIRD DAY.

EMPIRE BUILDING,
71 Broadway, New York City,

Wednesday, June 11, 1913.

Before SPECIAL EXAMINER HENRY P. BROWN.

Present on behalf of the United States, MR. DICKINSON and MR. COLTON.

Present on behalf of the Defendants, MR. LINDABURY, MR. SEVERANCE, MR. BOLLING and MR. REED.

ELBERT H. GARY,

the witness under examination at the taking of recess, resumed the stand for further examination.

CROSS EXAMINATION (Continued),

By MR. DICKINSON:

Q. Judge, on Monday we took up the personnel of the Executive Committee and the antecedents of some of them, and the views of a majority of them in respect to policies affecting competition, which you did not approve.

A. Judge, would that be a majority?

Q. I thought that we arrived at that. At any rate, however, I will say some of them. Am I correct or not that the highest authority on matters of policy respecting competition was vested in the finance committee?

A. No; not at that time.

Q. When did it become vested with it?

A. When the executive committee was abolished, in the summer of 1903, probably in August.

Q. You did have a finance committee, however, in 1903?

A. Yes; but by the original by-laws the finance committee had all the power of the board of directors concerning all financial matters, and the executive committee all the powers of the board of directors when not in session concerning other

matters, operating, manufacturing affairs, and so on. Judge Dickinson, if the executive committee approved the installation of any work or the purchase of any property, if that involved the payment of money, the question had to go before the finance committee for its approval before being acted upon.

Q. It did, however, take up questions of purchasing property that might involve competition? The finance committee did that, did it not?

A. It did. It did take up the question of purchasing property.

Q. And even if properties belonged to concerns that were selling, if there were such, in competition with the United States Steel Corporation, the finance committee would pass upon the question of purchase, would it?

MR. LINDABURY: One moment. That question assumes that they did consider the purchase of properties that were being used to compete with the Steel Corporation.

MR. DICKINSON: I do not think you caught the question.

(By request the stenographer repeated the pending question.)

MR. LINDABURY: I object to that because it is framed in such a way as to make an answer, either yes or no, misleading. It is very much like the question asked a man as to whether or not he had stopped beating his wife. He dared not say yes or no.

THE WITNESS: If I give you the fact, perhaps neither one will object.

MR. DICKINSON: Just do that, Judge, please.

THE WITNESS: In those days the finance committee had, as ever since it has had, the right to pass upon the question of expenditures; but at that time the finance committee would not consider any other question; that is, if the question of competition was involved, I do not think the finance committee at that time would take it up or be informed in regard to it, because that, perhaps, would be transcending its jurisdiction at that time.

By MR. DICKINSON:

Q. On January 20, 1903, Government Exhibits, Volume II, page 594, there is recorded a meeting of the finance committee; present, Messrs. Perkins (in the chair), Gary, Frick, Bacon, Rogers, Ream and Widener. The initials are not given here. Is that Perkins Mr. George W. Perkins, who at that time and since was connected with the Harvester Company?

A. I know of only one George W. Perkins, and he is the man.

Q. Was he then connected with the Harvester Company?

A. What is the date?

Q. January 20, 1903.

MR. LINDABURY: I object to the question as to Mr. Perkins' connection with the Harvester Company as quite irrelevant for the legitimate purposes of the case.

THE WITNESS: I think he was. Will you give me the page to which you are referring?

By MR. DICKINSON:

Q. Page 594 of Volume II, Government Exhibits.

A. I have it.

Q. The next name mentioned is Gary. That is yourself, is it?

A. Yes.

Q. Then the next is Frick. Is that Mr. Frick who had been with the Carnegie Company?

A. Yes.

Q. The next is Mr. Bacon. Is that Mr. Bacon of J. P. Morgan & Company?

A. Yes; then of J. P. Morgan & Company.

Q. The next is Rogers? What Mr. Rogers was that?

A. H. H. Rogers.

Q. Of the Standard Oil Company?

A. Yes.

Q. The next is Ream. What Ream is that?

A. Norman B. Ream.

Q. Was he with the Harvester Company?

A. Well, he has been——

Q. (Interposing) Was he a director, then, of the Harvester Company?

A. I am not quite sure. He may have been. He certainly has been since, although he resigned some time ago.

Q. But he was for a long period connected with them?

A. Yes, he was.

Q. Then the next is Widener. What Mr. Widener is that?

A. Mr. Peter A. B. Widener, of Philadelphia.

Q. Is that the Widener that was connected with the so-called Tobacco Trust?

MR. COLTON: One of the defendants in that case.

MR. DICKINSON: Yes, one of the defendants in that case.

MR. LINDABURY: I object to that. There is not any jury here, Judge.

MR. DICKINSON: No.

THE WITNESS: I do not know of his connection with the Tobacco Trust. It is the only P. A. B. Widener I know of.

By MR. DICKINSON:

Q. You do not know if he had any connection with the tobacco interests?

A. I do not know; no, I do not.

MR. LINDABURY: I object to this as irrelevant.

THE WITNESS: I do not mean to say that I have not heard that he was a stockholder and had some of the stock of the Tobacco Company, but whether he was connected with it I do not know.

By MR. DICKINSON:

Q. On page 595 the following is recorded:

“Oliver Ore properties. The purchase of the Oliver ore properties was referred to Mr. Frick with power to close. As one of the conditions of this purchase Mr. Frick stated that Mr. Oliver and Mr. Congdon would agree to keep out of the ore business except in the interest of the United States Steel Corporation.”

Do you recall whether or not that was a fact?

A. I do not.

Q. You know of the purchase of the Oliver ore properties?

A. I do.

Q. You know it was authorized by the finance committee?

A. I do.

Q. You know that as a part of that transaction Mr. Oliver and Mr. Congdon agreed that they would keep out of the ore business?

A. I do not.

Q. Do you know the contrary?

A. No, I do not. I suppose you have the papers. I doubt if that was in the papers, but I may be mistaken.

Q. I have only this record here of the action of the committee at a meeting at which you are recorded as being present.

A. I remember we were negotiating for that property at that time, but without much success, and finally Mr. Frick reported that he knew Mr. Oliver very well, and perhaps could make a bargain with him, and that he went South and met Mr. Oliver at Palm Beach, I think, and closed the price. The only thing that was involved, I knew, was the price, and afterwards we took a lease of the property.

Q. You knew Mr. Oliver and Mr. Congdon?

A. I knew Mr. Oliver quite well.

Q. You knew who Mr. Congdon was?

A. He was a practicing lawyer, wasn't he?

Q. Was not he identified, and had he not been for a long time, with the ore business?

A. I do not know that; I did not know him very well.

Q. You knew Mr. Oliver was one of the most experienced men in the ore business at that time?

A. No, I would not say that. Mr. Oliver did have more or less charge of the purchases of the Carnegie ore properties, and I think his firm had a sixth interest in the properties, but I would not say that he was an experienced ore man.

Q. Not an experienced ore man?

A. No.

Q. The Carnegie Company had large ore properties, had they not?

A. Yes.

Q. And hadn't Mr. Oliver practically bought all of them for the Carnegie Company, made their purchases for them?

A. I think he did; I think he had been largely connected with them.

Q. Wasn't the Carnegie Company one of the largest holders at that time of ore properties of any manufacturing corporation?

A. At the time the Olivers finished the business?

Q. At the time it went into the Corporation?

A. I should think so, yes. Mr. Oliver was a very adroit bargainer, so to speak.

Q. You expressed some views on the general question of fostering competition. Now, as you have used that expression in your testimony, I will ask you whether or not in that sense you regard the purchase by the United States Steel Corporation of the property of a competing concern, coupled with a contract that the vendors were to agree not to compete with the Steel Corporation, as fostering competition?

MR. LINDABURY: I object to that question because it does not appear that the owners of the Oliver properties were competing with the Corporation, nor does it appear that the Corporation took any contract from those owners not to compete in the future. All that appears is that in offering the sale of the property they threw in the offer stated in the minutes.

MR. DICKINSON: The question is asked without reference to the Oliver ore properties, but is a general question to get an understanding of the use of the term "fostering competition" as used by Judge Gary and as applied to that character of transactions.

Now, will you have the question read to you again?

THE WITNESS: I think I understand it.

MR. LINDABURY: I desire now, upon that explanation of counsel, to object to it further as a mere inquiry into economic or governmental principles, and the witness's views upon that point.

MR. DICKINSON: My purpose is to delimit exactly what the Judge meant when he used that term, because I want to get the scope of his testimony on that subject fairly, and I want an understanding of the term as he used it.

(The pending question was repeated by the stenographer.)

THE WITNESS: Of course I should think that would depend entirely on circumstances, Judge Dickinson. It would seem to me if the purchaser of any commodity or business, as a part of the contract, should secure an agreement from the seller that he would not enter into competition concerning that business, it would be perfectly proper and in many circumstances would not tend to restrict competition.

But I will answer your question further, that if the quantity of ore was very limited, and the United States Steel Corporation should buy such a part of that as to make it impracticable for others to secure ore, and should as a part of their contract, insist upon an agreement with some one who had special opportunities and special privileges that he should not purchase any more ore or be interested in securing any more ore, that would not be fostering competition. I have tried to make that as liberal to your side of the question, as I understand it, as I possibly can.

Q. I understood you to say, however, that if they bought any business and secured a contract obligating that party not to carry on that particular business in competition, it would not in your judgment be contrary to the principle of fostering competition?

MR. LINDABURY: Not ordinarily, he said.

THE WITNESS: I would not go any farther than I think the courts have gone in sustaining contracts of that kind. Of course every case must depend upon its own circumstances.

By MR. DICKINSON:

Q. What I was trying to get, Judge, is what you meant by the term "fostering competition," as applied to a case. Now, I will put it this way: Suppose people in a particular business or particular branch of the iron and steel business should sell out to a subsidiary of the United States Steel Corporation or to the United States Steel Corporation itself, would you regard a contract that they were not to compete at all in any line of business engaged in by the Steel Corporation as fostering competition, in the sense in which you have used that term?

A. I must answer that, Judge, by saying that it would depend entirely upon the circumstances. If you will give me the circumstances surrounding any particular purchase that the Steel Corporation ever made, I will give you my best judgment in regard to it.

Q. The proposition I have put to you there was: Suppose the agreement to stay out of competition is broader than the line of business embraced in what is sold and which the vendee is seeking to protect?

A. Even then it would depend upon circumstances, of course.

Q. Now, I will put this case to you——

A. (Interposing) In my statement, Judge, I used the expressions indulged in by me in the meaning ordinarily attached, having in mind the real substantial effect of what was done. I think I know what is practically restraint of competition and what is not. I am not endeavoring to deal in legal abstruse propositions at all.

Q. While we are on this question of your ideas on that subject, you referred to an opinion given by Judge Hoar. When did that first come to your knowledge?

A. I cannot tell exactly.

Q. Down to what time did you rely on and accept that as being a satisfactory exposition to you of the law?

A. I do not know that was a satisfactory exposition of the law to me. I have said that it had a marked influence on the men engaged in the wire industry. For instance, as you know, Senator Cummins was the counsel for the Washburn & Moen people for a good many years, and when I testified before the Senatorial committee, I called his attention to that opinion and he said he had read it. I know by conversations with the wire people that they believed they had a right to do that. Personally, so far as I know, I have never approved of a contract just like that, but I do not want to modify at all what I said about the rail business, of course.

Q. But, Judge, you spoke of the Hoar opinion. You were engaged at one time in the formation of the Consolidated Steel & Wire, were you not?

A. Yes; in trying to get together some of the wire companies.

Q. The American Steel & Wire of Illinois?

A. Yes.

Q. At what time was that formed?

A. That was formed, as I remember, in March, 1898.

Q. Now, you referred to the Hoar opinion. Was that at that time accepted by you or did it influence your judgment in regard to what you were doing at that time?

A. No, I do not say that it did. I do not think so. I did not consider at that time the putting together of the few companies that went into the American Steel & Wire Company of Illinois contrary to the Sherman Act, and I do not believe the members of the bar generally at that time did. That is a different question from the question of making contracts to divide territory and restrict output and fix prices, and so forth, as I regard it. I think lawyers generally, including myself, I will say, relied very largely in those days upon the decision of the United States Supreme Court in the Knight case, with which you are familiar.

Q. When was that rendered, do you know?

A. I do not, but it was certainly prior to 1897, some time prior, I think; you can give the exact date.

Q. I haven't it in my mind now.

A. It was prior to that time, I believe, and think that it is the consensus of opinion of the bar generally that the principles of that case have been since modified by the Supreme Court of the United States, but whether that is true or not I am giving you the state of my mind in those days to the best of my ability and recollection.

Q. Did you at any time accept as an expression of the law the Hoar opinion, and up to the time you introduced it in your evidence I want to know what figure it had, if any, with you.

A. I think, Judge Dickinson, that that opinion which I had not read at that time, I believe——

Q. At what time?

A. In 1897—affected my mind or would affect my mind—I will say did affect my mind.

Q. At that time?

A. At the time the arrangement was made with Mr. Carnegie, to which I have referred. I did not think at that time that arrangement was tainted with illegalities.

Q. You mean that arrangement in regard to the sale of rails?

A. Yes, although I have changed my mind since.

Q. Now, I want to get back to the time when you formed the Consolidated Wire, or were engaged in that, and the American Steel & Wire of Illinois, whether the Hoar opinion affected you at that time?

A. I do not think it did. I won't say that it did. I have no recollection on the subject, but I cannot see now that it would have affected my mind.

Q. At that time?

A. No.

Q. But did, later, you say?

A. I distinguish between putting together——

Q. (Interposing) I understand.

A. (Continuing)—the consolidation of different companies, the combination of a few companies, like the American Steel & Wire of Illinois, and making a contract such as the one Senator Hoar pronounced to be perfectly legal under the Sherman Act.

Q. So it did affect your mind when you entered into the arrangement with the Carnegie Company and—who was the other party to it? There were three of you, I believe, were there not?

A. Well, that calls for a specific recollection, and I cannot tell you.

Q. It was the Carnegie Company, the Illinois, and after that, I believe you said the Cambria came in, and the Colorado?

A. I cannot say specifically that it did.

Q. You said you thought they signed the paper afterwards, I believe?

A. Who?

Q. The Cambria and the Colorado.

A. I think they did. I think the presidents of those com-

panies put their names on that paper. Whether they did or not, the business was done as though they had put them on, and I think they did.

Q. Then I understand you, Judge, to say that in respect to that transaction the Hoar opinion did influence your judgment?

A. Well, of course that calls for recollection. I cannot tell; I cannot answer. I do not remember.

Q. I thought you said a while ago that it did.

A. I started to add, and I should have added, that it would have. I am not sure, looking back at it now. If I had examined that opinion as carefully as I have since, I think it would have affected my opinion. I do not care to be more specific than that, because I might be mistaken in recollection. That is the reason.

Q. And you do not know whether you had seen it at that time?

A. No; I cannot say that, even.

Q. Then what significance did the Hoar opinion have in connection with any matters that you acted upon prior to the formation of the Steel Corporation?

A. This effect; that I know very well some of the wire people stated to me that they had a perfect right to make this kind of contracts, and had that advice from their counsel; and I knew perfectly well that Senator Hoar was their counsel at different times.

Q. When were those statements made?

A. It seems to me they were made during the winter of 1897. I might be mistaken in my recollection, Judge. I do not want to be more specific than I actually can.

Q. Did you put any reliance upon that statement? Did that influence your conception of the law?

A. At what time?

Q. At the time you heard those statements?

A. I cannot answer that any more specifically than I can, because I have no recollection in regard to it.

Q. Then, Judge, can you say that at any period, in respect to any matter, having a knowledge of the Hoar opinion, either

directly or by reports such as you have given, it influenced your mind? If so, state when and in respect of what.

A. You mean to ask me if I can now remember specifically that it did; and I must answer your question in the negative.

Q. Then you do not know whether the Hoar opinion cut any figure with you at all at any time?

A. I do not know from positive recollection, no. If I could remember it I would tell you, but I cannot.

Q. Coming back to the matter of contracts, of which we were talking when we made this digression about the Hoar opinion, I call your attention to the contract with the Union Steel Company, which appears in Volume IV, Government Exhibits, page 1574, *et sequitur*.

In the first paragraph, it appears on page 1574 that this contract was made between the United States Steel Corporation, party of the first part, and Mr. A. W. Mellon, R. B. Mellon, W. H. Donner, William Flinn, George W. Darr, John Stevenson, Jr., and J. P. Whitla, hereinafter called the vendors, parties of the second part. And in that paragraph the Steel Corporation is designated as the Steel Company.

Turning over to page 1580, paragraph tenth reads as follows:

“The vendors severally agree with the Steel Company that they respectively will not within the United States or the Dominion of Canada for a period of ten years from December 1st, 1902, engage directly or indirectly in the manufacture of iron or steel or articles made therefrom now manufactured by the Steel Company, the production of furnace coke, or the mining or production of iron ore, except in the Territory of Arizona and the State of Florida, excepting, however, from the terms hereof the enterprises, if any, in which such parties may now respectively be engaged.”

You knew those gentlemen, Judge Gary, did you?

A. I knew some of them.

Q. Was not the United States Steel Corporation, through its various subsidiaries, engaged in the manufacture of iron and steel or articles made therefrom, which these parties were

not at that time engaged in; that is, were there not a large class of products——

A. I should say yes.

Q. Then this embraced a wider field in respect of competition than those men at that time were engaged in? Did it not?

A. Of course the language speaks for itself. You do not care to have me construe the language?

Q. All right.

A. May I say this about that contract?

Q. Yes; anything you choose, Judge.

A. This contract was drawn by Judge Reed's law firm, of which Mr. Beal was a member. The fact that they drew the contract representing both sides, the purchasers and the sellers, would certainly make me more careless in the examination of the paper. I have no recollection of having my attention called to that provision at all. By that I do not mean to express any opinion as to what I would have said about it if my attention had been called to it, because I do not know; I do not remember.

Q. Didn't you sign the contract?

A. Yes, I signed it as Chairman of the Executive Committee.

Q. You do not claim that you did not read it?

A. I am afraid I did not read it, Judge.

Q. Do you mean to say that the contract did not express the intent of the parties, and that the lawyers put in there something without authority?

A. I do not mean to say anything about that except what I have said.

Q. That is to say, you individually did not have your mind pass upon that particular feature; is that it?

A. Yes, I mean to say that, because I do not remember in the conversations or negotiations that anything was mentioned about that.

Q. But do you remember that you disapproved of that particular feature?

A. I do not; I have no recollection on the subject whatever.

Q. Now, we will come to another matter, somewhat similar in character. Government Exhibits, Volume II, page 559; a meeting of the executive committee April 22, 1901:

“Matter of Settlement With Mr. Reis:

“Referring to the matter of settlement of contract with Mr. Reis, it was agreed that the president be requested to carry out the settlement as heretofore agreed upon with Mr. Reis, providing Mr. Reis will agree not to engage in our lines of business during the next three years; otherwise to postpone settlement.”

Who was Reis?

A. I do not remember anything about that minute or the action of that meeting, but I do remember something of the transaction that I suppose that refers to. I am willing to state that to you, if you want that.

Q. Who was Mr. Reis?

A. William E. Reis had been president of the National Steel.

Q. And there was a matter of settlement pending between your company and him, was there, about something?

A. Yes, there was a settlement. There was a question presented by him. He asked for special consideration. I have no objection to telling you exactly what it was, if you care for it.

Q. I do not know that I care for it. You can tell it if you want to.

A. I do not care anything about it. Nobody would object to it.

Q. What business had Mr. Reis been engaged in, so far as iron and steel products are concerned?

A. Well, he had been connected with a company at New Castle, Pennsylvania, portions of which were taken over by different other companies, and when the National Steel was organized he became president of that company and I think was president of it at the time it was taken over by the United States Steel Corporation. That was some time after that, as I remember.

Q. Were the lines of business that he had been engaged

in commensurate at that time with those which the United States Steel Corporation was engaged in?

A. No.

Q. I call your attention to Volume II——

MR. LINDABURY: One moment, before you go further. I think in fairness to the case and to the Judge, since you have called attention to this matter, you ought to ask what that settlement was.

MR. DICKINSON: I told him he could say if he wanted to. If you want him to tell what it is, I do not object. I just did not want to fill up the record with what might be irrelevant.

MR. LINDABURY: I assume that you do not know what it was.

MR. COLTON: I have heard of it, but do not know definitely.

MR. DICKINSON: If counsel on the other side thinks it will be fairer to the case, just tell it.

THE WITNESS: I will give you the whole matter as I remember it.

MR. DICKINSON: Try to make it as brief as you can.

THE WITNESS: Mr. Reis had been president of the National Steel Company. Some time after the Steel Corporation was organized Mr. Reis, who had moved, or was about to move to New York—he had moved and he was living in New York, I am quite sure, before the United States Steel Corporation was organized; I may be mistaken about that, but he had moved, or was about to move—claimed that he was entitled to some special compensation because the National Steel was taken over during a term for which Mr. Reis had been elected president, and a settlement of his claim was finally made by the Steel Corporation paying him some sum of money in full satisfaction. I have no doubt he made that agreement.

By MR. DICKINSON:

Q. As set out here?

A. Yes, that he would not enter into business, but it is only fair to say that he spoke to me several times afterwards concerning having made some arrangement about his keeping out of business, and asked if I had any objection, and I

told him no. I am very sure he will remember that and testify to it.

He came to New York and went into other kinds of business and has lived here ever since.

Q. Mr. Reis had been engaged in some branches of the iron and steel business?

A. He had been president of the National Steel.

Q. He had a claim against your company which was disputed?

MR. LINDABURY: The nature of the claim was for salary for the unexpired term.

MR. DICKINSON: I will put it that way.

By MR. DICKINSON:

Q. He had against your company a claim in the nature of a claim for salary for an unexpired term and there was a controversy about it, and you settled that controversy with him upon condition that he would not engage in any of the lines of business which the United States Steel Corporation at that time was carrying on.

A. I think I can answer that in the affirmative.

MR. LINDABURY: And I think you ought also to say that the term of three years was correspondent with the term of his employment.

MR. DICKINSON: He has not shown that.

MR. LINDABURY: No matter, I am perhaps asking too much of you. We will prove our case ourselves, without asking you to do it.

Q. Judge, I call your attention to Government Exhibits, Volume II, page 599, contract between the United States Steel Corporation and the Crucible Steel Company. On page 599 appears the following:

MR. SEVERANCE: Which committee is that?

MR. DICKINSON: This is the finance committee.

By MR. DICKINSON:

Q. (Continuing) "That the leading interests are not to engage in competitive business. That Mr. Snyder will be

connected with the management of the Clairton properties during the pleasure of this Corporation on a salary to be fixed by agreement or by Mr. Frick if officials cannot agree, and while so connected will not engage in competitive business."

Was not that agreement that they were not to engage in competitive business put in with your sanction?

A. Judge, will you allow me to say this proposed contract was never executed; it was abandoned. I do not remember about that particular feature. I have no memory on the subject whatever.

MR. LINDABURY: You, by inadvertence, Judge, spoke of this as if it were a contract; at least I assume you spoke inadvertently. It seems to be a report of some special committee.

By MR. DICKINSON:

Q. Who had charge of that contract and the negotiation of it?

A. I did, more or less.

Q. Were not you the sole committeeman that did have charge of it?

A. Perhaps I was at that time; I think that is so.

Q. That was put in, then, with your sanction, was it, whether the contract was executed or not?

A. Of course, if you ask me to infer, I can answer that question; I have no recollection on the subject.

Q. But being the sole committeeman, what would you say? It appears on page 598: "Judge Gary, as Special Committee," had this matter in charge.

A. I was trying to remember something about it, Judge.

Q. All right.

MR. LINDABURY: It was Judge Gary and Mr. Frick, you will see by the latter part of that minute of March 17th.

THE WITNESS: I think I ought to answer to Judge Dickinson that I believe in the talk with Mr. Snyder it was agreed that he should enter our employ, he should have charge of this property, he was to receive a salary, and during that time he was not to enter into competitive business.

By MR. DICKINSON:

Q. "And that the leading interests were not to engage in competitive business," that is the expression.

A. I think that only referred to Mr. Snyder. My negotiations were had with him, and I believe he had sole charge of this at that time.

As I stated the other day, he had developed by practice the ability to use exclusively the Mesabi iron ore in the furnaces. He claimed credit for that, and we believe it was valuable.

Q. I call your attention to page 598, where it appears that the Crucible Steel was to retain 35 per cent. and Mr. Snyder 10 per cent., and that the negotiations were conducted with W. P. Snyder and Chairman Miller of the Crucible Steel. Please look at that and state whether or not you still believe that the "leading interests" in that clause referred to Mr. Snyder alone, and did not embrace the Crucible Steel.

A. Where is Mr. Miller's name mentioned?

Q. Page 598, at the bottom.

A. My negotiations were entirely with Mr. Snyder. I do not know what Miller that is. His full name is not given.

Q. Chairman Miller of the Crucible Steel Company.

A. I think that was a nominal position, and I still think Mr. Snyder was the leading interest, and I do not believe Mr. Miller would have been any factor of the Crucible Steel.

Q. This was a report of a special committee, was it not?

A. Yes.

Q. Doesn't this report show that the Crucible Steel was to retain 35 per cent., and that Chairman Miller represented the Crucible Steel in the negotiation?

A. The Clairton was engaged in a different line of business.

Q. Will you please answer the question?

A. May I have it read?

(The stenographer thereupon read the last question, as follows:)

"Q. Doesn't this report show that the Crucible Steel was to retain 35 per cent., and that Chairman Miller represented the Crucible Steel in the negotiation?"

A. Yes, the report shows that. I have no recollection of seeing Mr. Miller, if it is the one I suppose it is.

Q. Do you have any recollection which contradicts the statement of that report?

A. No.

Q. When did the United States Steel Corporation first get into the seamless tube business?

A. Well, the National Tube was to some extent, although I would not think an important extent, engaged in the seamless tube business before the Shelby was purchased. I would say they really got into the seamless tube business when that was purchased. If you give me the date of that, then that will answer your question.

Q. It was authorized May 29th, 1901, and the contract was authorized June 20th, 1901.

A. I should suppose soon after the contract was executed the National Tube was in the seamless tube business. I think at that time there were only manufactured about 30,000 tons of seamless tube in the country per annum, in one year.

Q. Do you know how much the Shelby Company manufactured at the time you took it over?

A. No, I do not.

Q. Judge, are you speaking now, when you speak of its going into the seamless tube at that time for the first time practically, as of knowledge that you recall having been possessed by you at that time from your knowledge of the works that you then had and what they were doing and the character of it?

A. No, I do not. I speak of it from my knowledge of the business which I acquired day by day in due course of business. I was quite familiar with the business going on at that time and I knew perfectly well that the seamless tube business was one that was coming on, so to speak, to some extent, and the National Tube were very desirous of getting into it, and I heard them say from time to time something about the experiments they were making, and so forth and so on; just as you would know what was going on in your law office concerning matters that you personally did not actually have charge of.

Q. Did you form your impressions from which you have spoken from information that you got from the officers of the National Tube at that time?

A. I think so.

Q. Were you a director, then, of the National Tube?

A. I presume I was, but I have no recollection of that matter coming up before the Board of Directors of the National Tube Company, although I will not say that it did not. It came up before our executive committee, I am very sure.

Q. Did you ever examine the minutes of the National Tube during that period, say for six or eight months prior to taking over the Shelby Tube?

A. I do not think I did.

Q. How about their annual reports?

A. No, I do not think I did.

Q. You did not read the annual reports of your subordinate companies?

A. No, I do not think I did; I do not think I was as careful in those days as a director as I think I am now when I am a director. I believe we have all been stirred up to more careful attention to the affairs of corporations in which we are directors.

Q. In what touch as a director of the National Tube Company did you keep in respect of what they were doing and their transactions as recorded in their minutes?

A. At the present time?

Q. No; at that time, 1901.

A. I am afraid I did not pay very much attention. I was nominally a director of the subsidiary companies, perhaps all of them, at those times, but as such did not have much, if anything, to do with their affairs, because the leading questions, questions of policy or questions of large expenditures, would come before the committees of the United States Steel Corporation, where they would be considered, and where I attempted more or less to exercise my supervision and influence.

Q. In the matter of authorizing development of the business in a plant, did you know about those matters?

A. I knew something about those matters, but only, I

think, as they came before the executive committee. Mr. Converse was a member of the executive committee.

Q. In taking over the National Tube Company properties, what acquaintance did you have with the capacities of the concern at that time and what they were doing, say in the latter part of 1900?

A. I had considerable, in a general way.

Q. Did you know that in the latter part of 1900 the board had authorized the officers to continue the development of the seamless tube business at the Christy Park plant?

A. If I did, I have forgotten it. I may have known.

Q. Did you know they had a plant called the Christy Park plant?

A. I have no recollection in regard to it.

Q. Do you know what kind of machinery it was after that, and what kind of tubes it was intended to produce?

A. I have no recollection. I would think not.

Q. But I am asking you now for what you recollect, Judge. Do you know, of your own knowledge, whether or not at that time, the latter part of 1900, the bulk of seamless tubes was made by the Shelby Tube Company?

A. No, but I would think it was.

Q. I am asking now, Judge, what you recall as knowing.

A. I must answer no, then.

Q. Did you know, then, whom the directors of the National Tube Company regarded as the chief competitor of their company in the seamless tube business?

A. No; I would be surprised if they thought at that time they were strong enough to be competitors of anybody in that business.

Q. Did you know at that time anything about the Standard Seamless Tube Company?

A. Continuing my last answer, I wish to say that I mean by that the National Tube people.

Q. Yes, I understand. Did you know anything in 1900 as to the existing competition between lap-welded products and seamless tubes, at such prices as brought them into competition and use for the same purposes?

A. What date do you ask about?

Q. The latter part of 1900.

A. No; I would not think there was much competition between those two classes of tubes at any time.

Q. Yes, but I am asking now as to what knowledge you recall as having had?

A. I know in a general way.

Q. Do you know anything about a committee of the National Tube Company on or about December, 1900, having secured from certain stockholders of the Standard Seamless Tube Company an additional agreement for the acquisition of at least 90 per centum of the capital stock of that company?

A. I do not.

Q. Do you know anything about that committee examining the plant of the Standard Seamless Tube Company when in full operation and also looking into its patents?

MR. LINDABURY: Are you speaking of present knowledge or knowledge at that time, Judge? Sometimes you have asked for his knowledge as of that date. I am not sure which you mean.

MR. DICKINSON: I am asking if he knows now if he knew then; in other words, if he can testify as to anything about it.

THE WITNESS: I did not know then, and I do not know now that I did know then.

MR. DICKINSON: That covers it, surely.

MR. LINDABURY: I think you misunderstood me, Judge. I thought it was not clear as to whether you were asking—

MR. DICKINSON: I think it is clear now.

MR. LINDABURY: Yes. I thought it was not clear as to whether you were asking about his present knowledge or as to his knowledge at that time.

By MR. DICKINSON:

Q. Did you, at any time, know that at that time it was the belief of the committee to which I have referred, formed after such examination, that the acquisition of the Standard Seamless Tube Company, in connection with the company's Christy Park plant, would give a greater capacity than that of the entire Shelby Tube Company?

A. No.

Q. Do you know whether or not about that time President Converse of that company stated to the directors of that company that they had acquired a plant which would have a greater capacity than the Shelby Steel Tube Company, capitalized at \$15,000,000, and whose plant represented an actual expenditure of about \$7,500,000?

A. No.

Q. Do you know anything about information given to the President of the United States Steel Corporation by Mr. Miller of the Shelby Tube Company of the entire success of certain experiments that had been instituted at the request of Mr. Schwab, with a view of making a tube to compete with the lap-welded tube for pipe, as of about the period April 20th, 1901?

MR. LINDABURY: I object to that because it does not appear that any such information was ever given.

MR. DICKINSON: I am just asking if he knows.

THE WITNESS: I do not.

By MR. DICKINSON:

Q. Have you any knowledge or recollection of any proposed combination or understanding between the National Tube Company and the Shelby people in regard to the question of prices of products, or sale of products?

MR. LINDABURY: As of what date?

MR. DICKINSON: About the same date, April 20th, 1901.

THE WITNESS: I have no recollection of it.

By MR. DICKINSON:

Q. When did the purchase of the Shelby Tube Company come to your knowledge?

A. I cannot give you the date. I remember substantially what occurred in regard to it. It may have been referred to in the executive committee, but I do not remember the date. Statements have frequently been made there that did not impress me very much, particularly if no action was taken in regard to them, but I remember very clearly the Shelby property as being offered to us. I remember seeing the president of the company two or three times; I remember his

statements substantially in regard to it, and in regard to the pecuniary condition of the company. I think they were impecunious, and very hard up for money; they were very anxious to sell. I remember that distinctly, and we were anxious, or at least desirous, of getting into the seamless tube business successfully.

Q. I call your attention to a meeting of the executive committee April 20th, 1901, Volume II of Government Exhibits, page 558, and read as follows:

“The President reports advices from Mr. Miller of the Shelby Tube Company of the entire success of certain experiments instituted at the request of Mr. Schwab with the view of making a tube to compete with the lap-welded tube for pipe. Under the arrangement Mr. Schwab was to pay \$25,000 for the experimental costs, for which he would be entitled to all information as to the process.”

I will ask you whether you remember that?

A. I do not.

Q. (Reading): “The discussion then took the direction of the advantage or otherwise of a combination or understanding with the Shelby people. Mr. Converse stated that the Shelby and the National Tube Companies are the only makers of seamless tubing.”

Do you recall what that combination or understanding was that is there referred to?

A. I do not.

Q. Do you know makers other than the Shelby and National Tube Companies of seamless tubes at that time?

A. I do not; I think Mr. Converse dignified the National Tube a little more than it was entitled to in his statement.

Q. Who was better informed about what they were making at that time, you or Mr. Converse?

A. Mr. Converse was better informed, and would be more enthusiastic in his statement of a question than I would, I think.

Q. Well, do you know any facts that you can state of your own knowledge contrary to that statement?

A. Well, I know this, Judge Dickinson, that at that time the practical men of the National Tube Company did not con-

sider they were making a success of the seamless tube. I know they were casting about and looking around to get hold of a patent, something that would enable them to get into that business. It was so natural for a man who was trying to get into a business, or had done something toward getting into it, to class himself with others who were in it, that I would not pay much attention to a statement of that kind.

Q. Do you know at that time that they did not have confidence in their ability to make seamless tubes?

A. I do not think the practical men did.

Q. But do you know?

A. I know from their statements.

Q. Who made the statement, and what statement did he make?

A. I cannot tell you that.

Q. Can you give any statement made by any man, giving the time and the substance of the statement to that effect at about that period?

A. I do not think I can specifically, no. My memory is not good enough to repeat conversations after that long time, but I know what was in the minds of the National Tube people very well concerning it.

Q. You spoke awhile ago of your understanding that the Shelby Tube Company was hard up?

A. They so represented themselves to be.

Q. In that connection I call your attention to this, on the same page, by the Chairman. That was you?

A. Yes.

Q. (Reading:)

“The Chairman suggested that inasmuch as we are entitled to this information regarding the new process, the president might say we would like to have it; that we would be glad to carefully consider the purchase of their company, it being clearly understood in advance that we were committed to no proposition, but for the purpose of knowing whether he would care to recommend, the president desired very full information as to the company and its business.”

Do you recall your making that statement?

A. I do not recall it.

Q. Do you recall anything about it?

A. I remember something about the subject matter, yes. In the first place, I was not in favor of purchasing the Shelby Tube Company. I really thought from Mr. Converse's statement that they had patents that were pretty good.

Q. At that time?

A. Yes.

Q. Mr. Converse thought so, too, didn't he?

A. Don't ask me what he thought.

Q. You undertook to say awhile ago what some people thought.

A. I think he claimed that; I will say that.

Q. Claimed it at that time?

A. I will put it this way: From statements he made concerning what the National Tube had done or could do or would do or expected to do, he always being quite enthusiastic, I supposed first that they had something substantial, and I was not in favor of buying the Shelby Tube; but afterwards, in talking with some of the practical men, and I cannot tell you now with whom, but presumably with some of those who attended the directors' meetings in New York and who were more or less in my office, nor can I give you the exact conversation, because my memory is not good enough, I reached the conclusion that we did not have a patent that was satisfactory or sufficient.

Q. Did you examine the patent?

A. No, I did not; and then when it was ascertained that the Shelby Tube were anxious to sell their properties I was in favor of having our people examine the properties, look into them carefully, the patents and everything else, to see really what they were, so as to act intelligently.

Q. When did you first make up your mind that it was a desirable thing to buy the Shelby?

A. I cannot answer that, but I think some time following, when our people had made a report concerning the Shelby patents, their validity and their utility; and I had considerable talk with the president of the company, whose name I have forgotten, concerning their desire to sell and the possi-

bilities of the seamless tube business. I remember the circumstance, but I cannot, of course, fix the date.

Q. Can you fix any time when it first appeared to you on account of the patents that it would be a desirable thing to buy the Shelby Tube Company?

A. You ask for a date; I must answer no.

Q. Can you give any month?

A. No.

Q. At the time of April 20, 1901, at this meeting, had anything been said then about patents?

A. I am very sure there had been, yes; but I did not know anything about the validity of the patents. In fact, I did not know much about the utility, except as this information came. Of course, this does not represent all that was said at these meetings.

Q. I call your attention to page 559:

“It was finally recommended by the committee that the president of this company advise a representative of the National Tube Company, through its president, and one from the Carnegie Company, to examine the plant, look the whole matter over and make a report to the president of this company.”

A. Yes.

Q. That says nothing about patents. Did you have then the question of patents up for discussion?

A. I do not think we had. I did not know much about it then, Judge. I must admit I do not think I was in favor of purchasing at that time. I was inclined to dispose of the whole situation without considering actively a purchase.

Q. How long after that before you changed your attitude?

A. That I cannot answer.

MR. LINDABURY: I know you do not mean to be unfair, Judge, but it is called a process instead of a patent, which is the same thing, in that very resolution. I suppose it means it was a patented process.

MR. DICKINSON: That refers to a special experiment made by Mr. Schwab. That was a matter that Mr. Schwab was experimenting on.

By MR. DICKINSON :

Q. At that time, April 20th, you say, then, you do not know that you had made up your mind as to the desirability?

A. I think I was rather opposed to it.

Q. You think you were rather opposed to it?

A. Yes.

Q. Can you say when you did favor it?

A. No, but I think after the report came in and after I had talked with some practical men of the Tube Company and after I had seen Mr. Miller.

Q. What was that report, Judge?

A. It was very favorable to the patent, as I remember; it was sustainable, and that it was of utility.

Q. What patent?

A. The basic patent under which the Shelby Tube operated.

Q. Was that report in writing?

A. No, I do not think so.

Q. It was not in writing?

A. If it was, I do not remember it.

Q. When was that report made?

A. I wish I could give you these dates, but I cannot.

Q. Can you approximate it?

A. No, I cannot.

Q. Who made it?

A. I cannot tell you that now.

Q. Were the patents passed upon by lawyers?

A. I think so.

Q. Can you give the name of the lawyer?

A. No, I cannot, but I believe our patent lawyer examined it. It was Mr. Bennett. I am very sure he did, and I am very sure I talked with him about it.

Q. Following that same meeting, the same page, I call your attention to the following:

“Steel Contract Between Shelby Tube Company and Carnegie Co.

“The president stated that the Carnegie Steel Company had a contract with the Shelby Tube Company to supply it with steel; that it was a very favorable one to the Carnegie

Company inasmuch as the latter could so arrange the price of steel that it would be rather difficult for the Shelby Company to continue in business.”

What was the character of that contract?

A. I do not know anything about it whatever.

Q. You have no recollection about that?

A. I have no recollection.

Q. The next clause is:

“The Chairman”—that is you—“expressed the opinion that he would a great deal rather have that company in business under our control than to absorb them.”

You absorbed them, did you?

A. If you characterize the purchase of that company as the one who wrote this characterizes it, I would say yes.

Q. How was it under your control?

A. I do not think I ever made any statement just like that.

Q. Do you know what you did say? Do you recall now the particular conversation you had or statements you made then?

A. I do not recall the conversation or statements, no. My memory is not good enough for that. I do remember, however, the incident. I remember that at that time I was not in favor of buying the property, and was trying to dispose of it. I could tell from that language what I probably said, if you want me to. I certainly did not use the words which have been attributed to me, which purported to give the substance of what I said.

Q. Did that have reference——

A. (Continuing) I have no doubt I said I would rather sell them steel than to buy them, but I do not remember saying just that.

Q. Steel under such arrangement as has been referred to by the president?

A. No; I don't think so.

Q. Did your statement have no reference, then, to what he had said?

A. Judge, you must do me the justice to remember that I say I do not remember what I said. I can give you inferences.

I know in those days that if I were opposed to the purchase of those properties I would, in the best way possible, try to dispose of the subject matter without acting on it. I was perhaps foolishly lax in allowing statements to be made, or actions taken, that I would not have approved of later.

Q. Then it was an error of the head and not of the heart, was it?

A. Well, I think so. I do not want to excuse myself at all for any laxity at that time. Still, if you had been where I was, and under the same circumstances, I am quite sure you would have acted about as I did.

Q. Judge, do you have any positive recollection of that meeting and anything that was said and done thereat?

A. I do not.

Q. The conclusion of that minute is as follows:

“The committee instructed the President to take up the matter with Mr. Miller without committing himself.”

Was that the matter of the purchase of the Shelby?

A. Yes; I think probably it was. I do not know. I should think so from that. Unfortunately, we do not know whether there was a vote on it, and if there was who voted, or how they voted. As I said, these were not minutes in the ordinary sense.

Q. Judge, I call your attention to the meeting of April 24, 1901, at which you are recorded as being present, Government Exhibits, Volume II, page 560, under the head “Shelby Tube Company.”

“The President reported that he had had an interview with Mr. Miller of the Shelby Tube Company and expects to receive from him a statement covering the last six months, showing shipments and amount of orders on the books. A similar statement will be furnished to Mr. Schwab by the National Tube Company. It was suggested that some arrangement could be made with Mr. Miller with the view of maintaining prices, and that some prices now could be advanced by both companies.”

What arrangement was there referred to about maintain-

ing prices? What arrangement was that with the Shelby Company about maintaining prices?

A. I have no idea. I have no recollection. It does not state who made the suggestion. I presume you will not find any arrangement was actually made; certainly not with my knowledge or approval.

Q. It mentioned you as being present, Judge, and I thought you might enlighten us as to what the arrangement was.

A. No.

MR. LINDABURY: No. It does not appear, as the Judge says, that there ever was any arrangement. You mean what the arrangement they were talking about was?

By MR. DICKINSON:

Q. We will go, then, to something else. I call your attention to the meeting of April 30.

MR. LINDABURY: Is that the next date?

By MR. DICKINSON:

Q. 1901, Volume II, page 562:

“Present, E. H. Gary, Chairman,” and others:

“The President reported in a general way the result of an interview had with Mr. Miller of the Shelby Tube Company. Mr. Schwab believes it is not at present feasible to make any division of the business of the National and Shelby Tube Companies.

“Upon the question of the acquisition of the property of that company, the President stated that the stock outstanding amounted to eight millions of common and five millions preferred stock. He also gave figures showing the business transacted by the Shelby Company. He is impressed with its earning capacity, and believes that under our control it would net about 50%. He rather thinks that the whole property could be purchased for about \$3,500,000. Mr. Converse stated that it is the only real live competitor the National Tube Company has and that between the two companies all the patents for seamless tubing manufacture are owned.

“The President suggested that if the purchase was made,

it might be done by giving stock of the United States Steel Corporation in exchange for stock of the Shelby Company and he would propose:

“1 share preferred stock for two shares preferred Shelby stock,

“1 share common stock for five shares common Shelby stock.

“Mr. Converse estimated that the properties of the Shelby Tube Company had cost about four million dollars and thinks very well of such a purchase if it can be made at price named by the President and effected through exchange of stock.

“The Chairman suggested that the President of this company take up the matter again with the Shelby people simply on the basis of an intermediary, with the intimation that the President does not know what can be done, but will see, &c. Mr. Converse stated that if Mr. Schwab can effect such a deal, it is a very good one, and that this committee should then recommend it to the Finance Committee.

“The President stated that he would have another interview with Mr. Miller on the lines of the above and would report later.”

Judge, when that suggestion, if made by you as here recorded, was made, did you then understand that the Shelby people were hard up?

A. I cannot answer that. I should think I would, from that statement that the property cost four million dollars and they wanted to sell it for three and a half million.

Q. They had a contract, then, with the Carnegie Company, did they not, which tied them up?

A. I have no recollection; I have no knowledge in regard to it. If I ever had any knowledge I have no recollection of it now.

Q. You do not know what effect that might have had upon their selling?

A. I do not; but if they had a contract at that time it would be in their favor, I should think, because they would have made the contract when prices were very much lower.

Q. Would it be in their favor if it was such a one as stated by the president on page 559, that he could so arrange the price of steel that it would be rather difficult for the Shelby Company to continue in business?

MR. LINDABURY: I object to that as irrelevant, and not cross-examination, and as calling for a speculation.

THE WITNESS: I would say no, if that were true.

By MR. DICKINSON:

Q. If that were true?

A. But I do not see how it could possibly be true. How could he manipulate the price of steel? This was a contract for billets, probably, on some sliding scale arrangement, and he would have to manipulate the whole——

Q. Suppose it was on a sliding scale arrangement.

A. Then he would have to manipulate the whole market in order to take advantage of it.

Q. How would he do that? Could he buy some pig iron and raise the price of billets?

A. If he had the money, I have no doubt he had the disposition to go and buy everything there was in the United States so as to control the market.

Q. Coming back to this meeting of April 30, 1901, when Mr. Converse said, as recorded there, that the only real live competitor the National Tube Company has was the Shelby Company, do you know anything now that you recall as having known then contrary to the fact that the Shelby Tube Company and the National Tube Company were competitors?

A. No, I do not, but I would be interested in knowing whether the Shelby considered the National a competitor.

Q. When Mr. Converse made the statement that between the two companies they owned all the patents for seamless tubing that manufacturers owned, do you know whether at that time the question had been raised to you as to the patents of the National Tube not being such that they could operate under?

A. No, I do not remember.

Q. There is nothing here recorded, is there, about patents other than that they owned them all?

A. No, I do not remember, but from what I learned of the conditions later, I cannot help but view some of those statements as rather ridiculous. I cannot give you the date.

Q. Could you give the month?

A. No; I am sorry I cannot, but I don't remember.

Q. How long was it after you took the Shelby over that you found the conditions in regard to patents?

A. I would presume it was pretty soon after this.

Q. Pretty soon after which?

A. After this meeting was held, but that is presumption. Of course when the report was made, then I ascertained the facts.

Q. I call your attention to a directors' meeting of the National Tube Company, May 21, 1901, Volume II of Exhibits, page 412:

"President Hearne reported that * * *

"Preliminary negotiations for the consolidation of the seamless department with the Shelby Steel Tube Company were under way, but it was extremely doubtful if any tangible results would follow. Two experts on behalf of this company had visited the Greenville and Toledo works, the most modern plants of the Shelby Company, and this visit seemed to show that the facilities of this company are equal, if not superior; also, that it is extremely doubtful if seamless tubes can be produced as cheaply as lap-weld operating under the existing values of their respective raw materials."

Do you know anything about the report of the two experts therein referred to?

A. I have no recollection.

Q. Do you know anything about the facts stated in these minutes, that at that time it seemed that the facilities of the National Tube Company were equal if not superior to those of the Shelby?

A. You do not mean just what you say, I guess.

(The pending question was repeated by the stenographer.)

MR. DICKINSON: I think that is the way it is.

THE WITNESS: I did not think it could be possible that that would be the report. No, I have no recollection.

By MR. DICKINSON:

Q. Do you know anything in regard to the views of the directors of the National Tube Company, entertained at that time, as to whether or not seamless tubes could be produced as cheaply as lap-welded, operating under the values of their respective raw materials?

A. No, but I should think that would be true. Of course it depends upon what you mean by facilities. Referring to the former question, I should think the facilities of the National Tube were very good, or at least might have been made very good, if they had had the Shelby Tube Company's basic patent, because facilities include a great many things.

Q. But you do not know how many patents there were at that time covering the piercing of tubes, do you?

A. No, I do not.

Q. Do you know what the National had?

A. No, I have forgotten. My mind is upon the fact that the Shelby had its basic patent, which is all-important.

Q. Judge, I read from Volume 23, pages 1640 and 1641, of the Stanley hearing, what purports to be the minutes of the finance committee, as follows:

"May 29, 1901. At a meeting of the finance committee of the United States Steel Corporation held this day there were present Messrs. Bacon, Ream, Rogers, Schwab, Gary; Mr. Perkins acting as secretary. The minutes of the previous meeting were read and approved. The president presented the question of purchasing the Shelby Tube Company, stating that the executive committee recommended such a purchase. After considerable discussion, on motion of Mr. Rogers, seconded by Mr. Ream, the president was given power to purchase on the terms he named with power."

Do you recall that power was given?

A. I do not remember.

Q. You do not remember the exact date?

A. No.

Q. Well, power was given, was it not?

A. I have no doubt of it; the properties were purchased.

MR. LINDABURY: To purchase with power, what do you mean?

MR. DICKINSON: Were given the power to purchase on the terms named. That is the way it reads here, but at any rate, I am asking him.

By MR. DICKINSON:

Q. Power was given?

A. Yes.

Q. Do you know the time the power to purchase was given?

A. No, but you gave the date there, and I must assume that is correct.

Q. I will go on now to another subject. We will correct that later, if the copy is not right.

MR. LINDABURY: There is nothing about it to suggest any error as you have read it. I presume it is a correct copy.

By MR. DICKINSON:

Q. I call your attention to Volume II, Government Exhibits, page 413, stockholders' meeting, August 19, 1901; the National Tube Company at that meeting there appears to have presented the second annual report to the stockholders of the National Tube Company for the fiscal year ending June 30, 1901, and in that report, as appears upon page 415, is set out a list of works of the National Tube as follows:

"Seamless;	Standard Seamless Tube Co.
Elwood City, Pa.	
Christy Park;	U. S. Seamless Tube Works.
McKeesport, Pa.	
Syracuse;	Syracuse Tube Works.
Syracuse, N. Y.	
Warren;	Ohio Tube Works.
Warren, Ohio.	
Youngstown;	American Tube Works."
Youngstown, Ohio.	

Do you know whether or not, Judge, the collocation of these under the head "Seamless," indicating that all these were seamless tube works, is correct or not, or that they had or did not have the seamless tube works there indicated at that time or not?

A. I don't know. I would think that they were making or attempting to make seamless tubes at these different plants at that time.

Q. That is to say at five different plants?

A. I would think so from that.

Q. And that was as of June 30th, 1901, as you will see from page 413.

A. That seems to be the date.

Q. That is for the fiscal year ending June 30th, 1901?

A. Yes. As I have already said, I think that the total seamless tube tonnage at that time was only about 30,000 tons a year.

MR. SEVERANCE: Did I understand your question to Judge Gary, Judge Dickinson, to be whether or not previous to the acquisition of the Shelby the National was making seamless tubes at five places?

MR. DICKINSON: Whether or not during the year ending June 30th, 1901, they were making seamless tubes at the places which I have indicated, as read from this report.

MR. LINDABURY: That is, at Ellwood City, at Christy Park, at McKeesport, Syracuse, Warren and Youngstown?

MR. DICKINSON: Yes.

THE WITNESS: He is asking what this shows; of course I do not remember. These plants, some or all of them, may have been plants used for the welded tube, but they may have been making or experimenting on seamless tubes here, or they may have secured in the meantime some of the Shelby tubes; I don't remember.

MR. SEVERANCE: Look at the next page, 416. It shows two places. I never heard of them making them in but two places.

By MR. DICKINSON:

Q. You say they may have been using something they got from the Shelby. When did they take over the Shelby?

A. I say I don't remember. I was only answering your question previously from the record.

Q. Had you taken over the Shelby before the 1st of July, 1901?

A. I cannot answer.

Q. You cannot answer?

A. No, sir.

Q. The contract authorizing it, according to that minute, was not until May 29th, 1901; you do not know how long after the authority to purchase culminated in a contract to purchase, and how long after that control was taken, do you?

A. I do not.

MR. LINDABURY: Judge Dickinson, I think it is not quite fair to assume that, in the respect that you are now referring to, this report speaks as of the end of June. You will observe there are stars there. So far as it is a fiscal report it doubtless ended with June 30, 1901, at the bottom of page 413, but in the statement of properties, and so forth, it might well have spoken as of the time of the meeting. I do not know what the fact is.

MR. DICKINSON: I think generally a report speaks as of the time that it purports to end, but if you want to show to the contrary, of course there will be an opportunity of doing it.

MR. LINDABURY: I don't know, but you are assuming, and the witness is, that that might be.

By MR. DICKINSON:

Q. I call you attention to page 416, the same annual report:

"On January 2nd, 1901, the entire capital stock of the Standard Seamless Tube Co., of Ellwood City, Pa., was acquired by purchase and later amalgamated with the United States Seamless Tube Works of Christy Park, and these two plants have since been operated as the Seamless Department of the Company. Both of these plants are thoroughly well equipped and the best of their respective classes in existence."

Do you know anything about the facts there stated?

A. I do not.

Q. One way or the other?

A. No.

(Thereupon a recess was taken until 2 o'clock p. m.)

AFTER RECESS.

ELBERT H. GARY,

the witness under examination at the taking of recess, resumed the stand for further

CROSS EXAMINATION (Continued),

By MR. DICKINSON :

Q. Do you know whether the National Tube Company was advertising as early as December 20, 1899, the sale of seamless tubes?

A. I do not. I should not be surprised at it, however.

MR. DICKINSON : I will offer in evidence, and you can have it verified from the original, Mr. Lindabury, this article from the Iron Age, December 20, 1899, page 20 :

“National Tube Company, manufacturers of black and galvanized wrought merchant pipe all kinds, sizes 1-8 to 30 inches. Boiler tubes. Mild steel and charcoal iron for stationary, locomotive and marine works. Casing, tubing and drive pipe for well purposes. Gas and oil line pipe. Cylinders lapwelded and seamless, tested 100 lbs. to 3,700 lbs. for compressed air, carbonic acid gas, anhydrous ammonia, etc., etc., etc. Water and gas mains. Converse and Matheson, lead joint, pipe for mains. Seamless tubes, shrapnel, projectiles and miscellaneous forgings.”

Do you know anything about such advertisements being in existence at the time the United States Steel Corporation first began negotiations for the Shelby?

THE WITNESS : I have no recollection of it now. I would not be surprised, however, to see such an advertisement.

MR. DICKINSON : I offer in evidence from an article in the Iron Age, May 16, 1901, page 34, an excerpt as follows :

“A contract has also been received by the National Tube Company, and will be executed at their seamless tube plant at Christy Park, near McKeesport, for 13,000 seamless tubes, to be used in Nielausse boilers, being built by the Sterling Company at Barberton, Ohio, for a new line of steamships

for the Pacific Coast trade. These are being built by the Eastern Shipbuilding Company, of New London, Conn., for one of the J. J. Hill companies. These ships are said to be the largest freighters ever built, having a displacement of about 25,000 to 30,000 tons."

Do you know anything about that fact?

MR. LINDABURY: One moment. You offer that in evidence, Judge?

MR. DICKINSON: Yes.

MR. LINDABURY: I want to put in an objection. I object to it as hearsay and irrelevant.

By MR. DICKINSON:

Q. Judge, do you know anything about that transaction?

A. No.

Q. At that time that would have been quite a large amount of seamless tubes, would it not?

A. What was the quantity?

Q. 13,000.

A. Yes, it would.

Q. Does it state there that they manufactured them?

A. It does not say at what point.

MR. LINDABURY: No, it does not say they manufactured them at all, Judge.

MR. DICKINSON: It says: "A contract has also been received by the National Tube Company, and will be executed at their seamless tube plant at Christy Park." Yes, it does say.

MR. LINDABURY: I suppose that would mean manufactured.

THE WITNESS: Christy Park was at McKeesport, where the National Tube had a large plant for other classes of tubes.

I should like to add to that other answer what I think is appropriate: The ability to manufacture seamless tubes would involve the physical ability, so to speak, and also the ability to manufacture them at a cost that would make it a commercial proposition. Of course I would like to include both of those reasons in statements I have heretofore given.

I know very well that there were a number of manufacturers that had started to manufacture seamless tubes to some extent. It seems to me, with the acquisition of the Shelby Tube, the National Tube only had about 83 per cent. of the total, whereas that has gone down, as you know, to 50 per cent. at the present time.

MR. LINDABURY: Much less than that, I think.

THE WITNESS: Less than fifty per cent.

MR. COLTON: We do not know what it is; I do not know whether you do or not.

MR. LINDABURY: I do; I thought you did or I would not have spoken.

By MR. DICKINSON:

Q. Did you know at the time of that advertisement anything at all about the cost to the National Tube Company of manufacturing seamless tubes?

A. No.

Q. You had been connected with the wire rod and steel business in the United States since the time of the organization of the Consolidated Steel & Wire Company in the early nineties, to the time that the American Steel & Wire Company of Illinois went into the American Steel & Wire Company of New Jersey?

A. Yes, in the way I have already stated.

Q. You had a good deal to do with the organization of the Consolidated Steel & Wire Company?

A. Yes.

Q. And also with the American Steel & Wire Company of Illinois?

A. Yes, as a lawyer.

Q. And you were interested, were you not, as a stockholder?

A. No.

Q. In neither one of them?

A. Yes; I was with the latter.

Q. You were not interested in the Consolidated Steel & Wire Company?

A. Not at the beginning, no.

Q. When did you become interested in it?

A. I could not give you the date, but some years after it was organized.

Q. Were you not one of the underwriters of the American Steel & Wire Company of New Jersey, or the syndicate?

A. I think I took some interest in the syndicate, yes.

Q. And you had stock, had you not, in the American Steel & Wire Company of Illinois?

A. When?

Q. At the time the American Steel & Wire Company of New Jersey took it over.

A. I cannot answer that; I do not remember. The interest I took in the syndicate I took as others did to whom subscriptions were offered, entirely as an outsider, and not as one connected with the steel and wire industry, because I was not connected with it at that time.

Q. Were you not at that time connected with the American Steel & Wire Company of Illinois?

A. I do not think I was. I do not think I had any interest, not even as a stockholder; I certainly had no other connection, and I do not think I was a stockholder at that time.

Q. I understood you to say that your connection with the Consolidated Steel & Wire Company was as a lawyer only?

A. Yes, up to a period several years after it was organized, as I remember. If you have the date there when I became a director of the Consolidated Steel & Wire Company I think that will give the time I became interested as a stockholder.

Q. I am going to show you here, and then I will question you on it, so that you will have an opportunity to refresh your memory, the paper put in evidence here by the Government, which is the testimony of Elbert H. Gary, called as a witness in behalf of the defendant in the Parks-Gates suit, I think. It is in Volume IX of Government Exhibits. Turn to pages 2325 and 2326. I will ask you whether you were connected with the organization of the Consolidated Steel & Wire Company not merely as a lawyer, but in other ways, and I ask you to say whether that refreshes your memory.

A. That does not refresh my memory at all. I am perfectly familiar with the facts, I think.

Q. What does that state?

A. It says "I have been connected with the wire rod or steel business in the United States since the organization of the Consolidated Steel & Wire Company, in about 1892, I had charge of the legal work, and a good deal of other work at the time that was organized."

Q. What other work, at the time it was organized?

A. Work trying to ascertain values, making estimates, going over the accounts and figures, and so forth, making distributions, and work of that kind. You see, I stated that I had not become interested as a stockholder until some time after that.

Q. I see. That was your statement before you saw the book, too.

A. Mr. Patterson, I remember, was the active business man and he consulted me from time to time, and I assisted him more or less at the time of the organization.

Q. You had known John W. Gates a long time prior thereto, had you?

A. Yes.

Q. Was he active in the formation of the Consolidated Steel & Wire Company?

A. Yes.

Q. Were Alfred Clifford and William Edenborn, who afterwards became a director of the United States Steel Corporation, associated with you in the management of the Consolidated Steel & Wire Company?

A. You do not want to connect me with them. I was not interested in the management of it. They were connected with it.

Q. You were counsel for it?

A. Yes.

Q. You were not a director?

A. Not until some years after it was organized.

Q. When did you become a director?

A. I cannot fix the date; I don't remember.

Q. Did they continue directors down to the time this was

taken over by the American Steel & Wire Company of Illinois?

A. I think so.

Q. Then did you serve as a director contemporaneously with them?

A. Yes.

Q. And they afterwards became directors of the United States Steel Corporation?

A. Yes.

Q. Prior to the summer of 1897, had not you and Mr. Gates both been doing something looking towards the consolidation of wire and steel factories?

A. Yes.

Q. Was not the organization and putting into operation of the Consolidated Steel & Wire Company in itself a long step in the direction of the consolidation of steel and wire factories?

A. I should think it was.

Q. During the period from 1892 to 1897 had not you, Mr. Gates and Colonel Lambert and Colonel Ellwood, all of whom were connected with the Consolidated Steel & Wire Company, had under discussion on one or more occasions the amalgamation of different wire and steel companies?

MR. LINDABURY: Objected to as not cross examination.

THE WITNESS: More or less during that period. I cannot say when that commenced. From present recollection I would not say it commenced as early as 1892.

By MR. DICKINSON:

Q. Suppose you look at page 2327, and the testimony given there, and see whether that refreshes your memory.

MR. LINDABURY: The fourth line from the top, I suppose you are referring to.

THE WITNESS: That is not susceptible of the construction you put upon it in your question to me.

Q. In what way do you think it is not susceptible of that?

A. You assume in your question that the conversations took place from time to time, commencing in 1892 and ending in 1897, but I say that it was subsequent to 1892.

Q. What time would you put it?

A. I would say from recollection now the first conversations were probably during the last year preceding the fall of 1897.

Q. Were you and John W. Gates associated together with the Illinois Steel Company?

A. Yes, in the way I have described.

Q. You were both directors of that company?

A. We were certainly in 1897, as early as some time in 1897.

Q. You were both stockholders?

A. No, I was not a stockholder, except perhaps a nominal stockholder, in order to qualify as a director. I had no pecuniary interest in it.

Q. In the Illinois Steel Company?

A. No.

Q. At no time?

A. No; I say I had no pecuniary interest. By that I mean except a very few shares for qualifying purposes.

Q. At no time did you become interested to any considerable extent?

A. No.

Q. Please look at pages 2328 and 2329, and I will ask you if in the latter part of August, 1897, you and Mr. Gates actively took up the question of buying up wire and steel properties with a view of putting together the principal steel and wire manufactories in this country?

MR. LINDABURY: One moment. Would you mind explaining the object of this examination, Judge? Of course, it is not proper for any witness to be asked to refresh his recollection by some testimony he gave on a preceding occasion, unless, of course, he has already on direct examination made statements to the contrary. This witness has not been examined on this subject at all, and I cannot quite understand in virtue of what rule of law you are conducting such an examination as this.

MR. DICKINSON: I will explain to you why I handed to him the book. I was going to ask him these questions, anyway, and on account of the direct testimony that he gave in regard

to his acquaintance with the wire business, but I thought really it was fairer to Judge Gary in asking him the questions to let him see the testimony. Of course I could have asked the questions independently; but if you prefer me doing it and not showing him the book, I won't do it.

MR. LINDABURY: I was asking your theory. Frankly, I could not see in the first place that it was cross examination upon anything that he had said.

MR. DICKINSON: Yes, it is, because he said he knew very little about the wire business. I am trying now to show an acquaintance with it.

MR. LINDABURY: I do not remember that statement.

MR. COLTON: He testified in regard to the wire business, anyway.

MR. LINDABURY: Of course he did, but I do not remember that he said he knew very little about it.

THE WITNESS: Where on the page referred to is there any justification for what you assume in the question you have asked me?

MR. LINDABURY: I wish, in view of the statement Judge Dickinson has made as to the object of the examination, to make an objection to it. I do not understand that he expects to show by the testimony of Judge Gary in the Parks-Gates suit any contradiction to anything that he has testified to on direct examination in this case; but anyhow, if he does, that testimony is in evidence by stipulation in this case, and speaks for itself, and whatever it shows in the way of knowledge on the part of Judge Gary of the business or connection with it is already in evidence in the record, and there seems to be no occasion for putting it in a second time by asking him to re-swear to what he swore to there.

MR. DICKINSON: My recollection is, and is confirmed by Mr. Colton, that you excepted to that as being incompetent.

MR. LINDABURY: No, as irrelevant.

MR. DICKINSON: I thought it was incompetent, too; not on the ground that it was an incorrect copy, but on the ground it was incompetent to use it as evidence. I won't refer to that, if you do not want to.

MR. LINDABURY: No, I do not object to your doing that.

MR. DICKINSON: I will just ask Judge Gary those questions independently. I thought possibly I was doing a kindness to him.

MR. LINDABURY: Don't misunderstand me. I am not criticising your showing it to him, but rather objecting because it seemed at least to be consuming unnecessary time to go all over this testimony again simply for the purpose of repeating it. I think it is true, now that you speak of it, that I objected on the ground that the testimony was not binding upon any other defendant except the Judge.

MR. DICKINSON: I don't know that you admitted that it was as to him.

MR. LINDABURY: I think I made a special exception on behalf of other defendants.

MR. COLTON: You did, but my recollection is that you excepted to it as incompetent, not as not a correct copy of what he had said, but as not proper evidence in the case anyway in behalf of Judge Gary as well; I do not remember as to that.

MR. LINDABURY: I did not mean to object to your showing it to him.

By MR. DICKINSON:

Q. Will you answer the question?

(The question was repeated by the stenographer, as follows:)

“Q. Please look at pages 2328 and 2329, and I will ask you if in the latter part of August, 1897, you and Mr. Gates actively took up the question of buying up wire and steel properties, with a view of putting together the principal steel and wire manufactories in this country?”

A. I think I can answer that in the affirmative, as stated in the testimony, and if it will help you any, Judge, I will say that all the testimony—I mean if it will save time for you, all the testimony I gave in that case I believed to be absolutely true at that time, and I have had no reason to change my mind since in regard to that opinion.

MR. DICKINSON: I think to make this competent as to other parties, Judge, I shall have to go on.

MR. LINDABURY: Will you let me see what the record is, Judge?

MR. DICKINSON: Yes.

MR. LINDABURY: Did I not stipulate that that should be received with the same effect as if the Judge had sworn to it in this case?

MR. DICKINSON: No.

MR. LINDABURY: I would be willing to do that if it would save any time.

MR. COLTON: There are a few things in it—I do not mean that there is anything special—but there are a few things that we want to prove as facts.

MR. LINDABURY: If you please, but I would be willing now to stipulate, Judge Dickinson, that this testimony shall stand with the same effect as if sworn to by the Judge in this case; and that as to all defendants whom we represent.

MR. DICKINSON: I have formulated my plan of examination, and I think it really takes more time than if I should proceed without interruption. I have not read the whole of that recently, and——

MR. LINDABURY: Pardon me, then, Judge.

MR. DICKINSON: I think I would have been through this or pretty nearly through if I had gone ahead.

MR. LINDABURY: Very well; I thought you had a day's work there.

MR. DICKINSON: No; I am not going to take it all.

By MR. DICKINSON:

Q. How did you answer the last question, Judge?

A. I answered it in the affirmative.

Q. Were you and Mr. Gates attempting to get the leading manufacturers in control of the different steel and wire companies together in consultation in New York at a time when some other gentlemen were also considering the subject of consolidating all the wire business interests?

A. I think the latter part of that statement is more than I could testify to from recollection. I do not remember, now, that those other gentlemen were attempting to get them all together; but they were engaged in the same effort to get a good many of them together.

Q. Did you and Mr. Gates join forces with these other gentlemen?

A. We did.

Q. Was Mr. I. Gifford Ladd one of those?

A. Yes.

Q. Was he afterwards concerned in the organization of the American Bridge Company?

A. He may have been. I cannot deny that he was.

Q. Did you and Mr. Gates take the matter up with the banking house of J. P. Morgan & Company?

A. Yes.

Q. Did you take it up with Mr. Coster, of that firm?

A. Yes.

Q. Did Mr. Coster have special control and management of corporations, including railroad and industrial organizations?

A. I think he did.

Q. Did you and Mr. Gates and others have any discussion as to about how you were to divide the contemplated profits, consisting of \$15,000,000 of common stock?

A. I think we did. With Mr. Coster, you mean?

Q. You and Mr. Gates, with each other and Mr. Parks?

A. We certainly did with Mr. Gates, and we did with Mr. Ten Broeck, representing Mr. Parks, and Mr. Ladd and Mr. Wolf I think was the other man; and no doubt Mr. Gates and I had some understanding.

MR. LINDABURY: May it be understood, without my repeating, that all this testimony is taken subject to objection on the ground of irrelevancy and incompetency and that it is not cross-examination.

MR. DICKINSON: Yes.

By MR. DICKINSON:

Q. Now, Judge, as the result of the interview between you and Mr. Gates, Mr. Parks, Mr. Ten Broeck and Mr. Coster, did you enter into an agreement dated September 23, 1897, with J. P. Morgan & Company, looking to the organization of a company which would purchase or control the properties of the Consolidated Steel & Wire Company, the Washburn & Moen Manufacturing Company, the Cleveland Rolling Mill

Company, the Newcastle Wire Nail Company, the Oliver Wire Company, the American Wire Company, the Pittsburgh Wire Company, the H. P. Nail Company, the American Wire Nail Company, the Salem Wire Nail Company, the Superior Barb Wire Company, the Ellwood Wire & Nail Company, the Continental Wire Company, the Kilmer Manufacturing Company?

A. I do not remember the names of those companies now. There was an agreement made between the firm of J. P. Morgan & Company and myself and, I think, Mr. Ten Broeck, representing those other people. I do not remember whether Mr. Gates was a party to that, Judge; nominally, I mean.

Q. At any rate, the agreement contemplated taking in a large number of companies?

A. Yes.

Q. You do not remember them all by name?

A. I do not remember the names.

Q. Do you remember most of those called to your attention?

A. I remember some of them.

Q. Judge, were not most of the companies which were embraced in that agreement afterwards taken into the American Steel & Wire Company of New Jersey?

A. I should think so, yes. I do not remember that, you understand, Judge; but I believe so.

Q. Did you have any knowledge of the existence of a wire nail pool during the year 1895 and 1896 or during any part of those years?

A. I knew of one wire pool, after it had been formed some time, and was the means of its abandonment; that is, I think it was abandoned on my advice; and there was a suit commenced in regard to it which was afterwards settled—a suit to recover damages.

Q. This wire pool that you speak of, was not the Consolidated Steel & Wire Company a party to it?

A. I think it was.

Q. Was not John H. Parks the commissioner and treasurer of that wire nail pool?

A. I think so. I do not know whether this is in evidence

or not, but if so, I believe you will find—anyhow it is my recollection—that after this suit at law had been commenced, the Consolidated informed me of this pool having been formed, and I advised them to abandon it, and it was abandoned by all of those who had participated in it. I cannot give you the exact time of it. You fix a date; but it was certainly prior to 1897.

Q. And it was ended prior to 1897, was it not?

A. Yes.

Q. Did not the prices of nails fall \$20 a ton upon the abandonment of that pool?

MR. LINDABURY: That is objected to as irrelevant.

THE WITNESS: I have no recollection whatever. I did not know anything about the market prices in those days.

By MR. DICKINSON:

Q. You do not know whether they fell or not?

A. No, sir; I had nothing whatever to do with the business of the Consolidated Steel & Wire.

Q. Did you not know that the Consolidated Steel & Wire Company was connected with the barb wire pool?

A. No; I do not think there was a barb wire pool. All I ever knew about barb wire was that the wire people generally had a license to manufacture barb wire under patents controlled by some company. I never heard of the legality of that being questioned before.

Q. Was there not an association, Judge, of a number of companies owning patents?

A. There may have been; they were acting under advice of another counsel. Their general counsel was John R. Bennett, if I have the initials right.

Q. What effect did these pools that you know of, while they operated, have upon prices?

A. I have no knowledge whatever in regard to that; never did have.

Q. Didn't C. H. Coster send a letter, February 26, 1898, addressed to you and John W. Gates, saying:

“Having been brought into close contact with the business of these companies (referring to the wire companies) and

with many of the leading manufacturers, it may not be out of place to suggest, first, the difference between the profit showing of 1897 and previous years, is demonstration that some arrangement whereby prices can be maintained is absolutely necessary to success; and secondly, that if the manufacturers will make some arrangement whereby the plan named in these contacts which have been given can be extended for a few months and prices in the meantime maintained, so that for the year 1898, or if possible a substantial part of the year, the net earnings will amount to as much as they did in previous years, the proposed arrangement can probably still be carried out on about the plan we have been considering. As you know, I have given these matters a great deal of time, and it is with the deepest regret that I am obliged at the present time to decline to proceed further.

Yours truly,
C. H. Coster."

The question is whether Mr. Coster sent you and Mr. Gates that letter.

A. I have no recollection of it. If I testified to that in the Parks case I am willing to admit he did.

Q. You were dealing with Mr. Coster as a representative of Mr. Morgan, were you not, with a view of putting these companies together?

A. Yes.

Q. He turned the proposition down, did he not?

A. He did.

Q. Did he not upon the question largely of earnings which were then being shown, as contrasted with previous earnings?

A. It was partly that, but there were other reasons. I think the Spanish War had a good deal to do with it; that was commenced or was seriously threatened about that time.

Q. There is the entire letter, if you would like to look at it. (Handing letter to witness.)

A. Is not that in the Parks case?

Q. No, that is the Coster letter.

A. I am not in a position to admit or deny this, because I do not remember it.

Q. You referred to that in Volume IX of Exhibits, page 2339. Look at that, will you, please, the bottom paragraph. Do you recall that now?

A. Do I recall this letter?

Q. Yes.

A. No; I do not.

Q. Have you read it all?

A. Yes; I have read this.

Q. The whole of the letter?

A. Yes, I think I have read the letter.

MR. LINDABURY: From what source was that letter produced?

MR. COLTON: You gave it to me.

MR. LINDABURY: I thought I did. Well, now, the only proper question of the witness about such a letter is whether he received it. Its contents speak for themselves. Now, you have the fact that the letter was received and admitted, and it was put in. Now, how is it possible to ask the witness whether a letter was written to him, reading so and so, and then read the letter?

MR. DICKINSON: On page 2339 is this statement of yours, Judge Gary:

“Of course, I am not certain, Mr. Fox, that this letter of February 26th was received that same day, although I think it was; I think it was sent by messenger. It was about that date or very soon after.”

Now I will ask you if you received that letter?

THE WITNESS: Well, I should think yes. Will this cover the inquiry? We had received a written notification from Mr. Coster that he declined to proceed, and he did suggest a further extension, and some of the manufacturers would not make the extension and the thing fell through. That is as far as I now remember.

By MR. DICKINSON:

Q. After the failure of that, did not you and Mr. Gates and Colonel Ellwood and Frank Baackes take up the question of consolidating into one company the various companies which afterwards came into the American Steel & Wire Company of Illinois?

MR. LINDABURY: Objected to as not cross-examination, and as irrelevant.

THE WITNESS: Yes.

By MR. DICKINSON:

Q. Did Mr. Gates and Mr. Frank Baackes, Colonel Ellwood, Mr. Clifford, Mr. Edenborn and you become directors of the American Steel & Wire Company of Illinois upon its formation?

A. Yes.

Q. Is it not a fact that the putting together of the interests which were consolidated in the Consolidated Steel & Wire Company and their subsequent consolidation together with other steel and wire interests in the American Steel & Wire Company of Illinois, was such a consolidation as would be and was very useful and beneficial in the plan to put together all of the leading manufacturers in the steel and wire business?

A. I do not know; I cannot answer that question.

Q. Look at page 2348, towards the top, and state whether that as recorded there is the fact at the time you gave your evidence in the Parks-Gates suit.

A. That is my answer, Judge. It speaks for itself; I would not care to modify that, as being my opinion at that time.

Q. You gave that as a statement of fact?

A. As an opinion.

Q. You were nearer the events then than now?

A. Yes.

Q. At the organization of the American Steel & Wire Company of New Jersey did you not sign a notice to the stockholders of the American Steel & Wire Company of Illinois which contained a statement as follows:

“The syndicate agreements will provide that the New Jersey Company shall acquire such of the capital stock of the American Steel & Wire Company of Illinois, not less than a majority thereof, however, as may be offered on the following basis;” and then setting out the basis?

MR. LINDABURY: I object. Any witness inquired of as to

the contents of a paper he signed is entitled to have the paper laid before him before he answers it. Where is that?

MR. COLTON: At the top of page 2265, Volume VIII, Government Exhibits.

MR. LINDABURY: What is the date of that Coster letter?

MR. DICKINSON: February 26, 1898. You will find it in Volume I of the record, page 340.

MR. LINDABURY: Before you answer, I object, because the statement which is in evidence speaks for itself as to its contents, which is in evidence as Government Exhibit No. 360.

THE WITNESS: I should like to see the original paper.

MR. DICKINSON: I think counsel agree that is a copy of the original, don't you?

MR. LINDABURY: No, I do not recall just now.

MR. DICKINSON: I thought it was put in subject to an exception for relevancy.

MR. LINDABURY: Just for the moment, I do not recall about it. I do not say I have not agreed to that.

THE WITNESS: I doubt if I signed the original paper, Judge. I had left the Wire Company, actually, some time before that. I had nothing whatever to do with it. I had sold out my interest, my stock, and while it is possible I might have been left on the board of directors of the American Steel & Wire Company of Illinois, and it is possible I might have authorized my name to be attached to the circular, I have no recollection in regard to it, and I certainly do not think now that I personally signed it, because I did not have any interest in the subject matter whatever.

MR. LINDABURY: Before you proceed, you have forgotten, as I had, the origin of this paper. We never assented to it; we never agreed. It was produced by Frederick Strauss under your subpoena and he did not know its source or anything of the kind, but he found a print among his files, the origin or authenticity of which he knew nothing about, and he produced that. and this is a copy of it, and it was put in under objection.

By MR. DICKINSON:

Q. Whether you signed that or not, state whether or not that correctly sets forth the substance and the terms upon which that transaction took place?

A. I do not know anything about that, and I never did know anything about the facts. I had no information in regard to it. I was entirely disconnected and disassociated with those people and those interests at that time.

Q. Judge Gary, I call your attention to Volume II, Government Exhibits, pages 823 and 824, to the following:

"State of Illinois, County of Cook, City of Chicago. The undersigned as owners and holders of 119,208 shares of the preferred stock, and 119,933 shares of the common stock, being more than 99 per cent. of the capital stock of the American Steel & Wire Company, a corporation organized under the laws of the State of Illinois, do hereby ratify, approve and confirm the foregoing agreement between said company and Frederick P. Voorhees, dated March 11, 1899, which was executed by said company at the request of the undersigned, and hereby acknowledge full payment and satisfaction of the distributive share as stockholders in the corporate assets or property of said company and release and discharge said Voorhees and the directors, managers, officers and agents of said corporation of and from any and all further accountability or liability in respect thereof.

"The undersigned further agree and consent that the corporate enterprise of said American Steel and Wire Company be abandoned, that the charter, franchise and corporate name be surrendered, and that the corporation be dissolved."

Signed by twelve persons, among them E. H. Gary. Do you recall that?

A. I do not.

Q. Does that refresh your recollection?

A. It does not at all. I should like to see the original paper. I can account for my name being attached to that paper, of course. It would seem evident to me that my name must have been continued as a director of the American Steel & Wire Company of Illinois, and these names undoubtedly represent the directorate of that company, but I certainly had nothing whatever to do with that.

Q. This paper comes from the minutes of the American Steel & Wire Company of Illinois. Were you counsel for that company at that time?

A. No.

Q. You were a director?

A. It seems that my name had been continued. From this I would think so, although I would have thought otherwise because I disassociated myself from those people and those interests about the 1st of October, I should think, 1898.

Q. You notice that this is attested under seal by F. E. Patterson, assistant secretary.

A. Yes. Well, these were legal proceedings. This paper was evidently drawn by a lawyer and for the purpose stated in the paper, and undoubtedly the assistant secretary signed the paper prepared by counsel.

Q. Do you say he signed your name?

MR. LINDABURY: You ought not to try to mislead the witness.

MR. DICKINSON: I am not. I don't think I am.

MR. LINDABURY: You don't mean to say that the paper was attested by F. E. Patterson, the signature of Judge Gary. The seal of the American Steel & Wire Company is all that the secretary attested.

MR. DICKINSON: He may have been a witness to this too.

THE WITNESS: I do not think I signed the paper. If I did sign it——

By MR. DICKINSON:

Q. You have forgotten all about it, have you?

A. I have forgotten about it, and if I signed it, I signed it because counsel presented the paper to me and stated the object of it and I put my name down in order to allow them to dissolve the old company. I had nothing whatever to do with it, and had no knowledge whatever in regard to it, and I do not think——

Q. Did you become a stockholder of the American Steel & Wire Company of New Jersey?

A. No.

Q. Not at all?

A. I did not, except by that underwriting——

Q. But you did by virtue of that?

A. I took an interest in that, and I sold out the interest

as soon as I could. I never had anything to do with the company prior to its acquisition by the U. S. Steel.

Q. Do you know whether you got stock or cash in that transfer?

A. I do not think I made any transfer.

Q. Of stock?

A. No, I did not make any.

Q. You said if you had any stock, as far as you recollect, it was only qualifying stock as a director?

A. That was the Illinois Steel; that was an entirely different company; as far as the American Steel & Wire Company of Illinois—

Q. (Interposing) The American Steel & Wire Company of Illinois, its stock was exchanged for the American Steel & Wire Company of New Jersey?

A. I did not have any.

Q. I understood you to say if you had any your recollection was it was mere qualifying stock.

A. That relates to the Illinois Steel Company.

Q. So you mean to say at that time you had no stock of any sort in the American Steel & Wire Company of Illinois?

A. No, I think not; not a share. I am very sure I did not. Let me give you the facts in regard to both companies. I can do it in a very few words.

Q. What I am trying to get at is whether you were a director at the time the transaction was made, whether you had any stock of any kind, qualifying or otherwise?

A. I will give you the facts to my best recollection.

Q. That is all I want.

A. As to the American Steel & Wire Company, I was a substantial stockholder.

Q. You mean of Illinois, now?

A. Yes, of Illinois. As to the American Steel & Wire Company of Illinois, I was at one time a substantial stockholder. My recollection is that soon after I came to New York I sold out all the stock I had in that company, and therefore had none at the time the American Steel & Wire Company of New Jersey was organized. Possible to be mistaken,

and I might have had some left, but I do not think I did. As to the Illinois Steel Company, I did——

Q. (Interposing) Well, now, I am not talking about the Illinois.

MR. LINDABURY: You did not mention the date of coming to New York, Judge.

THE WITNESS: I came to New York to take the presidency of the Federal Steel Company October 15th, 1898.

MR. DICKINSON: Now, Judge, I do not want to argue with you, but if you had no stock at the time why would it be necessary for your name to appear there?

THE WITNESS: Because I think my name had been continued as a director of the company.

By MR. DICKINSON:

Q. Could that be without being a stockholder?

A. Yes; I think it could in Illinois. If not, the company held one share, or something like that, for me. I do not think I was a stockholder at the time of the organization of the American Steel & Wire Company of New Jersey.

Q. Judge, did you visit the Lorain Company's Steel plants and works at the time the Federal Steel Company was formed?

A. I did.

Q. What did the Lorain Company have at that time, in the way of furnaces and rolling mills, completed or under way?

A. They had two blast furnaces, they had a blooming mill, a girder rail mill and some other things; I do not remember exactly what.

Q. Do you know, Judge, at what time they completed the plants that were in process of being constructed at the time of the formation of the Federal Steel Company?

A. I do not, exactly; but as soon as we could.

Q. You do not know what year?

A. No; I do not. I suppose we did the most of it in 1899.

Q. Was any enlargement made of the rail mill of the Lorain Steel Company between the time it was taken over by the Federal Steel Company and February 24, 1903?

A. I cannot answer that from recollection.

Q. Can you give the comparative capacity of the Lorain Steel Company in blast furnaces, blooming mills and rolled products, as it existed in 1898, as compared with what it was upon the completion of the building which was going on at the time of the formation of the Federal Steel Company and completed during 1899?

A. I cannot. I should say it was considerable. Of course I had no reason to carry those items in my mind, Judge, and my memory is not good enough to retain them.

Q. Judge, do you know that in 1903 the Lorain was making Tee rails, and had been for two years prior thereto?

A. Some Tee rails. I would not think, now, from recollection, it made any considerable quantity in 1903.

Q. Still you do know that they were making Tee rails in 1903?

A. No; I don't know that, even.

Q. Do you know whether or not they were making them in 1902?

A. No; I do not.

Q. Or 1901?

A. I don't know that, either. If I were to guess at it, I should doubt their having made any later than 1900.

Q. I am not asking for a guess. I am just asking what you know.

A. I do not remember.

Q. Do you know the size and capacity of their rail mill?

A. No, sir; I do not remember.

Q. Were J. P. Morgan & Company large bondholders and stockholders of the Illinois Steel Corporation?

A. I do not know.

Q. Prior to the time it was taken over by the Corporation?

A. I don't remember.

Q. I will call your attention again to your testimony appearing in Volume IX, which you have there, on page 2330, and to the statement: "Finally Mr. Gates called attention to the fact that J. P. Morgan was a large bondholder and stockholder of the Illinois Steel Company, that we were acquainted, he and I were acquainted at Morgan's, and he be-

lieved it was possible to get the firm of J. P. Morgan & Company enlisted in the enterprise."

Does that refresh your memory at all as to whether or not J. P. Morgan or Morgan & Company were large bondholders or stockholders in the Illinois Steel Company at that time?

A. It does not. Of course there is better evidence than mine in regard to that.

Q. You were asked who financed the Federal Steel, in the sense of bankers, and you answered: "J. P. Morgan & Company formed a syndicate or managed a syndicate which provided \$14,000,000 or a little more," and then the question was asked: "Did they act in the formation of the Federal Steel Company otherwise than in the capacity of financiers?" You answered: "They did not."

A. That is the firm. Mr. Bacon and I did the work.

Q. But were they not interested, either the firm or members of the firm, as stockholders or bondholders, and were they not members of the syndicate, and were they not represented on the board of the Federal Steel Company?

A. They were represented on the board.

Q. Were they stockholders and bondholders?

A. Well, I have already stated that I do not remember.

Q. Were they members of the syndicate?

A. They were managers of the syndicate.

Q. And members, too?

A. I do not know. If I ever did know, I do not remember.

Q. On page 8744, Volume 65 of your testimony, you said:

"In fact, the Federal Steel was only the beginning of a plan or organization to carry into practical and successful effect what we had in mind and what we were endeavoring to accomplish."

Now, what did you have in mind at that time to which you referred, and what were you endeavoring to accomplish?

A. We were endeavoring to establish a plant for the manufacture of the principal lines of iron and steel at the lowest cost, and for the purpose of offering them for sale in this country and foreign countries throughout the world, and

all the raw products that entered into the manufacture of iron and steel, and facilities for transporting the raw materials to the finishing mills.

Q. Was that plan conceived, then, substantially the one that you participated in, in carrying out the formation of the United States Steel Corporation?

A. No, certainly not.

Q. You said "The Federal Steel was only the beginning of a plan or organization to carry into practical and successful effect what we had in mind and what we were endeavoring to accomplish."

Now, what did you have in mind beyond what the Federal was, and was the plan there carried out that you then had in mind?

A. I think you mix a plan for securing certain things and the method of securing them. At the time we formed the Federal Steel we believed we were forming and carrying into effect a plan which would be effective. It proved to be ineffective, inefficient, as I have attempted to describe. At that time we had no idea of taking in any other companies, purchasing any other going concerns. It was after we had formed the Federal Steel and found by practical experience that it was inefficient, too small, and really only the beginning of securing facilities which we had hoped to secure when we formed the Federal Steel, by the acquisition of these properties and perhaps, if necessary, building additional mills; after we had been going for some time, and after we had failed to secure funds to build additional finishing mills, so as to give a diversity of products, then it was we availed ourselves of the opportunity to buy these other plants which went into the United States Steel Corporation.

Q. Did you have in mind when you formed the Federal Steel any other plan that was broader and beyond that you were then contemplating in the Federal Steel?

A. No.

Q. Then what did you mean when you said "In fact, the Federal Steel was only the beginning of a plan or organization to carry into practical and successful effect what we had in mind and what we were endeavoring to accomplish?"

A. So it proved to be; it proved to be the fact. When we formed the Federal Steel I think there is no doubt we had in mind the idea of building additional mills so as to diversify our product, and we would have done so if we could have secured the money.

Q. What kind of ore did the Carnegie Company have that the Minnesota Iron Company did not have?

A. It had a good deal more of the Old Range ore, so-called, which at that time was more essential for the purpose of mixture than they are at the present time.

Q. Were not both of them large holders on the Vermillion Range?

A. We thought at the time the Federal Steel was formed the Minnesota Iron Company was a large holder of Vermillion Range ores; it was not so very large from the present standpoint. We had two mines on the Vermillion Range.

Q. Was the Vermillion Range ore as high a grade ore as the Old Range ore?

A. It is a high grade Old Range ore.

Q. Did the Federal Steel and the Minnesota Iron Company both have an insufficient supply of Old Range ore such as that in the Vermillion Range?

A. I do not think you mean to ask that question, Judge; the Federal Steel owned the Minnesota Iron Company.

Q. I know, but through that ownership, did it have any ore other than that?

A. The Illinois Steel Company had some ore.

Q. Then the question is proper. Did the Federal Steel through all of its holdings, including the Minnesota Iron Company, have an insufficient supply of Old Range ore such as that in the Vermillion Range?

A. Excuse me. I did not mean to criticise your question, Judge. The Illinois Steel, as it turned out, did not have much of any ore. It had one mine that promised pretty well, but has been abandoned long since and did not amount to anything really. It did have a certain grade of ore called the Iron Ridge, near Milwaukee, an ore high in phosphorus and low in iron content, that is desirable for basic iron and will

be good, but it is not to be compared with many of the other ores.

Q. Did the Federal Steel Company have an insufficient quantity or supply of Old Range ore such as that in the Vermillion Range?

A. It did not have a sufficient quantity, although I thought at the time it did have a pretty good supply.

Q. At what time?

A. When the Federal Steel was organized.

Q. How long was it before you changed your view as to that?

A. I think the better I became acquainted with the situation. That ore situation has changed very materially during the last few years.

Q. Do you remember the agreement or the promise of rebate entered into between the Carnegie Steel Company and the Minnesota Iron Company about 1898?

A. I know of it and remember the circumstances.

Q. What was the effect of that?

A. Let me tell you first about that, Judge. It is only fair, I think. That was an arrangement by Mr. Porter with Mr. Harry Oliver, prior to the time of the organization of the Federal Steel Company. It was carried into effect, and I think the contract signed after the Federal Steel Company was organized.

Q. Was the effect of that to give a rebate of 35 cents a ton upon Vermillion ore to the Carnegie Company?

A. I think it was, Judge.

Q. Well, at that time, did you consider that the Federal Steel Company had an insufficient supply of Old Range ore, or did you discover that afterwards?

A. I had nothing to do with the making of the contract, and would not have made it under any circumstances. The Federal Steel should have had that ore, and probably would except it was limited in its supply of cash or cash resources, and Mr. Porter made that contract with a view of securing the transportation of the ore over the Duluth & Iron Range Railroad, which had been one of his pet projects, and which he had always particularly tried to protect. The Min-

nesota Iron Company had the privilege of buying that ore which Oliver got, a splendid proposition, and he let it go under those circumstances and made that arrangement. I came into the Federal Steel with that bargain having been made.

Q. Did you have anything to do with a subsequent arrangement, if you did not have with the original contract, by which the companies were enabled to pay something like \$200,000 that had accrued for the year 1899?

MR. LINDABURY: I object to that because it assumes as a fact what is not proven.

A. I do not know what you refer to.

By MR. DICKINSON:

Q. I call your attention, and see if it refreshes your memory, to minutes of the Carnegie Company of June 6, 1900, Government Exhibits, Volume II, page 440, where Mr. Gayley says—

MR. LINDABURY: One minute, before that is read. I object to attempting to refresh the recollection of the witness by a minute which he did not make, which was made at a meeting at which he was not present by a corporation with which he had no connection, and which he never saw.

MR. DICKINSON: Still, it may refresh it, nevertheless.

By MR. DICKINSON:

Q. I will read:

“We have, in accordance with our estimate, at least ore enough in the Vermillion District for a twenty years’ supply. The present general freight rate is \$1.00. We have had an arrangement with railroad for some time to carry ore at rate of 60 cents, paying currently, however, one dollar per ton, but we have not been able to collect our money for the reason that there was no fixed method of payment and railroad feared rebating. Judge Gary thinks that if we make a contract as now proposed they can find a way to pay us the amount due us, which approximates \$200,000.00, and make the further payments or rebates required.”

Now, I will ask you, Judge, whether or not the \$200,000 or any amount approximating the same was paid, and if so, under

what kind of an arrangement, and if it was in the nature of a rebate?

A. I have no recollection whatever in regard to it, Judge Dickinson.

Q. Judge, turn to page 441 of the same Volume II, running from pages 441 to 445, and look at the contract there. You notice, Judge, on page 441 that the parties to this contract are the Carnegie Company, the Oliver & Snyder Steel Company, the Federal Steel Company, and the contract runs for 40 years. Do you have any knowledge of that contract?

A. I have no recollection in regard to it.

Q. Were you a director at that time of the Federal Steel Company?

A. Yes.

Q. On page 443 occurs the following:

“When the quantity shipped in any three year period commencing January 1st, A. D. 1900, shall be less than 1,500,000 tons, 35 cents per gross ton.”

That is referring to the payments. Have you any recollection of that?

A. No; I have no recollection whatever in regard to this.

Q. Or of anything being paid under such a contract and agreement?

A. No; I have not. I have no doubt Mr. Porter took charge of that. I might have signed the contract. I do not know that I did or did not. I have no recollection. I am very sure I had nothing to do personally with the negotiation.

Q. Did you know there was a rebating arrangement between those parties?

A. I have no recollection in regard to it. If I knew it, I do not remember it, Judge.

Q. Were you counsel for the Federal Steel Company then?

A. I was perhaps nominally counsel as well as president.

Q. You were the president of the company?

A. I was president, yes; but we had counsel outside.

Q. And if you had an agreement involving that amount of money for that period of time in regard to rebates, you have now forgotten it?

A. It seems to me, Judge, that I would have known it at that time.

Q. But you say you do not know one way or the other now?

A. No; I do not.

Q. On page 8771 of the typewritten record you say: "I will say the Illinois Steel could not successfully compete with the Carnegie Steel Company more than 100 miles east of Chicago, if it could at that distance."

Could the Carnegie Steel Company compete with the Illinois Steel Company successfully up to within 100 miles east of Chicago?

A. Well, it is very difficult, of course, to draw an exact line.

Q. I will say approximately, then.

A. It would depend a little upon what the product was. The Carnegie Steel Company had the advantage of the Illinois Steel Company a good deal; there is no doubt about that. That is what that line would determine.

Q. Well, it was approximately, then, up to within 100 miles east of Chicago that the Carnegie Company's competition pushed back the Illinois Steel Company, was it?

A. Well, I was asked to state a place, and I ventured that distance, without attempting to be accurate, or without knowing, now, just where the point would be. It is very difficult, where two companies are trying to sell in the same territory, or adjacent territories, to tell where the line is which divides where profit commences.

Q. Still, Judge, you did say that the Illinois Steel Company could not successfully compete with the Carnegie Steel Company more than 100 miles east of Chicago, if it could at that distance. Do you stand by that?

A. If it could at that distance?

Q. If it could at that distance.

A. That is rather an indefinite term. I had to be indefinite, as I must be now.

Q. That was approximately, then, the dividing line up to which these companies could meet each other in successful competition?

A. I don't know, Judge. I do not intend to state a thing

as accurate unless I believe it is accurate. I do not want to be driven into exact dates or into exact locations or lines exactly, unless I think I know. Of course you can understand that.

Q. I am trying to see how definite you meant that answer to be, Judge.

A. I am finding no fault. I am merely explaining my attitude.

Q. Really, then, do you know anything definite about that?

A. I know a good deal about the subject.

Q. Of course, but I mean as to where the line of successful competition of one would reach in respect to the other.

A. No; I think I would say no. I might give an opinion in regard to it.

Q. To what extent did the Illinois Steel Company make cotton ties at the time it was taken over by the United States Steel Corporation?

A. I have an impression that it was not making very many cotton ties at that time, but I might be mistaken. I do not think it was very profitable.

Q. Did it have the machinery for making cotton ties?

A. Yes, it had a cotton tie mill at Joliet.

Q. What was the capacity of it?

A. I have forgotten.

Q. But you think at that time it was not making many?

A. That is my recollection. Of course, it is very easy to be mistaken.

Q. Well, according to the best of your knowledge and recollection—of course you are speaking that way—did it cease to make cotton ties at any period prior thereto?

A. Oh, yes. It had made cotton ties, but my impression is that it was not making cotton ties at that time.

Q. How long a period was it during which it had not been making cotton ties?

A. I have no recollection whatever.

Q. I will ask you if you know that the Steel Hoop Company had an agreement with the Illinois Steel Company to pay them \$150,000 a year to stay out of the cotton tie business, which was in effect at the time the Corporation was formed?

MR. LINDABURY: Which corporation do you mean?

MR. DICKINSON: The United States Steel Corporation.

THE WITNESS: I have no recollection of ever having heard of it. When was that made?

By MR. DICKINSON:

Q. All I know about it is what appears in the minutes of the Carnegie Steel Company, July 30, 1901. You were a director of that company at that time, were you not, the Carnegie Steel Company?

A. In 1901?

Q. Yes, July 30, after the formation of the Corporation?

A. Yes, I must admit it.

Q. Mr. Corey was president of it, was he?

A. Yes.

Q. He says, at page 921:

“American Steel Hoop Company.

“Mr. Corey: I find that the Steel Hoop Company had an agreement with the Illinois Steel Company to pay them \$150,000 per year to stay out of the cotton tie business. Mr. Preston tried to have the contract cancelled the first of April, but failed, and agreed to continue it for the remainder of this year. I took the matter up again this week, taking the stand that all contracts were abrogated between the constituent companies as of July 1st. President Schwab agreed with me, so that we succeeded in having that agreement cancelled.”

What do you know about that agreement, Judge?

A. I think you ought to have asked Mr. Schwab about that, because anything you want to prove, look in the Carnegie minutes.

Q. They have been a great help to us, Judge.

A. Do not hold me responsible for them.

Q. I thought, being a director, that you might occasionally have looked at them.

A. I have already said that I do not know anything about the directors' meetings, or their minutes, in those respects.

Q. But this is a question between two subordinate companies, is it not, if it existed; that is, between the Illinois Steel Company and the American Steel Hoop Company, both subor-

dinates of the United States Steel Corporation, were they not?

A. They were subsidiary companies, but they seemed to be in pretty active competition. There was not much suppression of competition there.

Q. Pretty active competition, with one paying the other \$150,000 a year for not making cotton ties.

MR. LINDABURY: They abrogated that.

MR. COLTON: After July.

THE WITNESS: I don't know anything about it.

By MR. DICKINSON:

Q. You would not call that conserving competition and promoting competition, would you?

A. No, I would not say anything in favor of that, Judge. Of course I have tried to be very frank with you; there were a good many things in earlier days that I hoped had been entirely eradicated.

Q. Your plans after they began to develop towards the formation of this larger concern than the Federal Steel took on an aspect in which you were considering purchasing the Carnegie, I believe you stated.

A. Yes, sir.

Q. That was the first company that you considered purchasing?

A. Yes, when Mr. Frick came to my office.

Q. And that was the first step in this idea of rounding out the Federal and making of it a self-contained, complete, rounded out business proposition?

A. That was not any step; that was a suggestion, to buy that company.

Q. They did take that step, though, did they not?

A. Not at that time.

Q. I know, but later?

A. Yes, the purchase of the Carnegie, of course.

Q. But it was all, as I understand, based upon the idea of expanding the Federal?

A. Yes; it was.

Q. And rounding that out to make this complete proposition?

A. Yes.

Q. The Federal Steel capitalization was \$100,000,000, was it not, paid in, or just a little short of that?

A. About that.

Q. Now the first thing that you proposed to round out the Federal with was by swallowing the Carnegie. What was the capital of that?

A. At that time?

Q. Yes, the capitalization?

A. I should think it was \$160,000,000 of bonds and \$160,000,000 of stock.

Q. That is right, \$320,000,000.

A. Yes.

Q. That would round out a company of \$100,000,000 to a considerable extent, would it not? It would have to let out its belt?

A. It would extend the plant and be a long step in rounding out the plan which we had in mind, as I have described.

Q. Now, then, as a part of the step of rounding out—

A. But Judge, you remember when we organized the Federal we had an authorized capital of \$200,000,000. We issued about \$100,000,000, and if we could have sold the other \$100,000,000 at par we would have sold that stock and commenced to build finishing mills. Now, if we could have secured the Carnegie at the time Mr. Frick came to see me, and could have further increased the capital stock of the Federal Steel and exchanged stock for the Carnegie properties, it would have been a very good proposition and a very long step towards rounding out the plan which we had started upon.

Q. Another step in rounding out was acquiring the American Steel & Wire Company of New Jersey, with a capital of \$90,000,000, was it not?

A. What I say of that I say of all the other companies taken in by the United States Steel Corporation.

Q. And the National Tube, of \$80,000,000, and the rounding out by which the Federal expanded into a complete, round-

ed out, self-contained business proposition finally embraced a capitalization of \$1,400,000,000, did it not?

A. Well, the figures are all in evidence; they all speak for themselves?

Q. That was the capitalization of the Steel Corporation?

A. What did the Carnegie begin with? What did all of these companies start from? Because a corporation starts from a capitalization of \$1,000,000, or \$1,000, and grows into a capitalization of \$1,000,000,000 or \$2,000,000,000, I do not see militates against it.

Q. How long was it that this Federal Company of \$100,000,000 in this rounded out plan expanded into \$1,402,000,000, just a few months, wasn't it?

A. Yes.

Q. Doesn't that remind you, the Federal taking in these other companies, of Aaron when he cast down his rod and it turned into a serpent, and all the Egyptians cast down their rods, and Aaron's swallowed them all up? At that time were not the Carnegie and the Illinois the largest producers of standard Bessemer steel rails in the United States?

A. Yes, I think so.

Q. Were not the Carnegie, the Illinois, and the National the three largest producers of billets in the United States?

A. I cannot answer that question now. I do not remember about it.

Q. Certainly the Carnegie and the Illinois were the two largest, were they not?

A. I should think the Carnegie was the largest, and the Illinois was a large producer of billets.

Q. Then the National was a large one, was it not?

A. I do not know that it ranked third. Perhaps you have the figures.

Q. Were not the Carnegie and the Illinois at that time the largest producers of plates in the United States?

A. The Carnegie was the largest.

Q. Was not the Illinois the next largest?

A. That I cannot answer. It may have been. My recollection now is that the Carnegie perhaps produced 250,000 tons a year and the Illinois Steel 100,000 tons a year. If I

am wrong and you have the figures, you will correct me of course; that is sheared plates. The Illinois Steel Company had no universal plate mill. The Carnegie Steel did.

Q. Judge, you testified in regard to a memorandum which Mr. Frick brought you, coming direct from the Rockefellers and which contained an amount which the Rockefellers had finally said they would take. What was the amount?

MR. LINDABURY: He did not say brought to him. I thought he said brought to Mr. Morgan.

THE WITNESS: He brought it to Mr. Morgan. Mr. Morgan showed it to me.

By MR. DICKINSON:

Q. The whole answer: "During these negotiations I remember Mr. Morgan asked me to make an estimate on the value of the Rockefeller ores, and in a somewhat crude way I attempted to do that, having before me then some figures showing quantities and knowing something about the ore properties in the Lake Superior region, and at a period later than that he showed me a memorandum which Mr. Frick had brought him coming direct from the Rockefellers, and which contained an amount which the Rockefellers had finally said they would take."

What was that amount?

THE WITNESS: I do not remember this case.

By MR. DICKINSON:

Q. Can you approximate the amount of it at all?

A. No.

MR. LINDABURY: I think it was the amount that they afterwards got.

THE WITNESS: Yes, except in closing the purchase we took on some additional things and paid them cash for it. That was the \$8,000,000.

MR. LINDABURY: That was the \$8,000,000 in favor of the Bessemer Steamship Company.

By MR. DICKINSON:

Q. Do you know whether the amount was \$48,000,000?

A. It was more than that.

Q. Was it in money or stock?

A. In stock, I think.

Q. What would it represent in money?

A. I have forgotten now, but of course I would have to give you my impression, and I might be wrong. My impression would be \$75,000,000 or \$80,000,000.

Q. What was the outstanding capital stock, do you remember, of the Lake Superior Consolidated Iron Mines?

A. I do not.

Q. The payment was made in stock, was it?

A. Yes, I think except for the boats; they were \$8,000,000, I think. Afterwards there was a contract drawn, it seems to me. Isn't that in evidence.

Q. I am trying to see what you recollect about it.

A. When it comes to figures that my attention has not been called to for a long time, and the dates, I can not always remember them.

Q. I show you a stipulation, not entered into by your counsel, but by Rockefeller counsel and us, and I ask you to look over that and state whether or not to your knowledge the facts there set out are correct.

MR. LINDABURY: I object to examining a witness by showing to him a statement made by some one else which he and his counsel have repudiated already, and with the making of which he had no connection, ever.

MR. DICKINSON: Well, I thought it might remind him.

MR. LINDABURY: It is not a proper way to remind the witness. Now, Judge, as a lawyer and a judge, do you want to stand for that sort of question, seriously?

MR. DICKINSON: We are all lawyers, all three of us.

MR. LINDABURY: I would like to appeal from yourself as counsel to yourself as judge, and ask you to pass on that question.

THE WITNESS: I spoke of all the Rockefeller properties outside the boats, and I do not think this \$48,000,000 covers all the Rockefeller properties.

By MR. DICKINSON:

Q. How about the ore properties?

